

THE HONOURABLE SRI JUSTICE P. KESHA RAO

CRIMINAL REVISION CASE No.1654 of 2018

JUDGMENT:

Heard the learned counsel for the petitioners and the learned Public Prosecutor for the first respondent-State.

This criminal revision case is filed questioning the order passed in CrI.M.P.No.2356 of 2018 in C.C. No.376 of 2012 on the file of VI Additional Chief Metropolitan Magistrate, Hyderabad, dismissing the petition filed under Section 311 Cr.P.C., to recall PW-4 and PW-8.

The facts of the case are that the petitioners herein are charged for the offence under Sections 379 and 201 IPC and 66 (D) IT (Amendment) Act 2008. During the course of enquiry/trial, the prosecution has already examined PWs 1 to 10 and with regard to PW-4 and PW-8 are concerned, they were examined on 21.1.2015 and 25.6.2015 respectively. After cross examination of PW-10, the petitioners herein have filed an application in CrI.M.P. No.2356 of 2018 under Section 311 of Cr.P.C. to recall PWs 4 and 8 on the ground that some crucial points were came into light which are very much related to the PW-4 and PW- 8 and in fact, these aspects were brought into picture during the examination of PW-10.

The prosecution filed the counter and opposed the said application on the ground that PW-4 and PW-8 were already cross examined at length and the present petition is filed only to drag on the proceedings. In the counter filed, it is also brought to the notice of the Court that the reasons to recall the PW-4 and PW-8 are not mentioned in the petition.

The learned counsel appearing for the petitioners argued before the Court that the during the course of examination of PW-10, certain crucial points on certain aspects came into light and the same have to be clarified by recalling PWs 4 and 8. If they are not recalled, the petitioners' rights and interest in the matter would be prejudiced.

Per contra, the learned Additional Public Prosecutor appearing for the respondent NO.1-State contended that the present petition under Section 311 Cr.P.C., is filed three years after examination of PW-4 and PW-8. In the petition also, they have not clarified as to on what aspects, the petitioners wanted to recall PW-4 and PW-8. Therefore, the petition is filed to drag on the proceedings.

Having heard both the counsel and also on a perusal of the material on record, it is revealed that in the petition filed under Section 311 Cr.P.C., the petitioners except stating that crucial points on certain aspects came into light, which are very much related to PW-4 and PW-8, nothing has been mentioned. As a matter of fact, PW-4 and PW-8 are examined on 21.1.2015 and on 25.6.2015. PW-10 was examined on

04.04.2018. If the contentions of the petitioners were held to be correct that crucial points on certain aspects came into light only after examination of PW-10, still PW-10 was examined on 4.4.2018 and the present application came to be filed on 13.6.2018 only after delay of 2 ½ months. A perusal of further record also discloses that the petition under Section 311 Cr.P.C., has been filed after three years of examination of PW 4 and PW 8 and after 2 ½ months of examination of PW-10. From these aspects, it appears that the present petition is filed only to drag on the proceedings.

Be that as it may, even on merits also the petition filed is bereft of any material aspect on which the petitioners wanted to recall PW 4 and PW-8 to clarify crucial points on certain points. Therefore, this Court is of the opinion that there are no merits in the criminal revision case and it is liable to be dismissed.

Accordingly, the criminal revision case is dismissed.

Miscellaneous petitions, pending if any, shall stand closed. No order as to costs.

JUSTICE P. KESHA RAO

Date 02.07.2018

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