HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.10349 of 2018

ORDER :

The petitioner is A.1 in C.C.No.38 of 2016 among seven accused, leave about two of them appears died, for others facing the trial pending on the file of the Principal Junior Civil Judge-cum-Judicial Magistrate of First Class, Jaggaiahpet of Krishna District. The petitioner A.1 engaged a counsel, undisputedly, the counsel continues on record. A petition to recall PWs.2 to 5 filed more than eight months after their evidence was treated with no cross-examination by A.1. The other accused cross-examined the witnesses as per the submission of the learned counsel for the 2nd respondent/de facto complainant. From the prosecution evidence closed, Section 313 Cr.P.C. examination was also completed undisputedly. Thus, at the instance of the petitioner/A.1, there are no grounds to recall them, as rightly concluded by the Court below. It is made clear, however, while disposing of the criminal petition that if at all there was no accused cross-examined PWs.2 to 5, the learned Magistrate, by virtue of this order, by invoking Section 311 Part II Cr.P.C. from the mandate of the law of their cross-examination otherwise necessary rather leaving untested by any of the accused, also with reference to Section 165 of the Indian Evidence Act, to recall and permit their cross-examination subject to costs and if at all any of the accused cross-examined among five out of seven accused for two no more, it is made clear that the evidence from the cross-examination of one

accused is equally available as evidence to make use by the other accused of the same trial though there is no any specific cross-examination.

2. Accordingly, the criminal petition is disposed of

Miscellaneous petitions pending, if any, shall stand closed.

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Dr. B. SIVA SANKARA RAO, J

5th December 2018.

Note:
Issue C.C. by tomorrow.

(b/o)
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HIGH COURT OF JUDICATURE AT HYDERABAD FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
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