

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.13475 of 2018

ORDER:

The criminal petition is filed seeking to set aside the docket order in IA/CRLMP.No.148 of 2018 in SC.No.54 of 2015 dated 01.10.2018 passed by the V Additional Sessions Judge, II-FTC, Warangal, by virtue of which the Court below dismissed the petition filed under Section 311 of the Criminal Procedure Code seeking the Court below to recall prosecution witnesses P.Ws.1 to 9 for the purpose of cross-examination.

2. Heard the counsel for the petitioners and the learned Public Prosecutor appearing for the respondent.

3. The ground on which the aforesaid petition was filed is that the accused have changed their counsel and the previous counsel failed to put some material questions and also could not elicit material omissions and contradictions. The Court below, by considering that the trial of the case commenced during the month of October 2017; that since one year the trial is continuing and that P.Ws.1 to 9 were already cross-examined by the counsel for the accused, came to the conclusion that the petition was filed vexatiously.

4. But, however, since the petition shows that the counsel has changed and that material omissions and contradictions were not put to the witnesses, this Court opines that the ends of justice would be met if an opportunity is given to the petitioners to further cross-examine the witnesses by recalling the prosecution witnesses.

In the light of the above, the impugned order is set aside and criminal petition is allowed. However, considering that the matter is of the year 2015, this Court feels it appropriate to fix the date of recall and cross-examination of the prosecution witnesses. On the date agreed by the counsel, the Court below is directed recall and permit cross-examination of the prosecution witnesses, which shall be completed between 07.01.2019 and 10.01.2019. If the petitioner does not comply with the said directions, the order of the lower Court would stand confirmed. Therefore, the petitioner shall pay Rs.1,000/- to each of the witnesses towards costs. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

December 17, 2018

Note: Furnish CC of the order by 20.12.2018

(B/o) DSK

T. RAJANI, J

