

THE HONOURABLE SRI JUSTICE SANJAY KUMAR
CRIMINAL PETITION NOS.1936 AND 2019 OF 2019

COMMON ORDER

Muniraj Arun Kumar Goud, the petitioner in both these cases, is A1 in Sessions Case No.347 of 2017 on the file of the learned Metropolitan Sessions Judge, Hyderabad. The charges against the petitioner/A1 and the other accused are relatable to offences under Sections 120B, 302 and 201 IPC read with Section 34 IPC. He filed Criminal Petition No.1936 of 2019 under Sections 437 and 439 CrPC seeking grant of regular bail.

Earlier, the petitioner/A1 filed CrI.M.P.No.3364 of 2018 in Sessions Case No.347 of 2017 under Section 311 CrPC to recall P.Ws.1 to 11 for their further cross-examination by his counsel. By order dated 24.12.2018, the learned Metropolitan Sessions Judge, Hyderabad, dismissed the petition. Aggrieved thereby, the petitioner/A1 filed Criminal Petition No.2019 of 2019 under Section 482 CrPC to set aside the said order and to recall the witnesses for further cross-examination by his counsel.

In so far as Criminal Petition No.1936 of 2019 is concerned, the learned Assistant Public Prosecutor, State of Telangana, would assert that the petitioner/A1 had absconded at an earlier stage during the proceedings before the Sessions Court and therefore, he would not be entitled to grant of bail.

Perusal of the order dated 23.08.2018 passed by the learned Metropolitan Sessions Judge, Hyderabad, dismissing the earlier bail petition filed by the petitioner/A1 demonstrates that at the stage of his examination under Section 313 CrPC, the petitioner/A1 had absconded leading to the case being split up against him and the disposal of the case

in so far as the other accused was concerned. Taking note of the conduct of the petitioner/A1, the learned Metropolitan Sessions Judge refused him bail.

In so far as Criminal Petition No.2019 of 2019 is concerned, perusal of the petition filed by him under Section 311 CrPC demonstrates that the only reason cited for seeking recall of the witnesses was that he had changed his counsel and some material evidence still needed to be elicited from the witnesses. The learned Metropolitan Sessions Judge adverted to the fact that the only ground cited for seeking recall of the witnesses was the change of counsel and no further details were furnished as to the aspects on which the witnesses needed to be cross-examined on. It is on the strength of this reasoning that the recall petition was dismissed.

This Court is in complete agreement with the view expressed by the learned Metropolitan Sessions Judge. If a party is allowed to reopen proceedings and turn back the clock every time he changes his counsel, there would be no end to the litigation. As already pointed out *supra*, the only ground cited by the petitioner/A1 in his recall petition was the change of his counsel and nothing else. This Court therefore finds no grounds to interfere with the order dated 24.12.2018 passed by the learned Metropolitan Sessions Judge, Hyderabad, dismissing the recall petition.

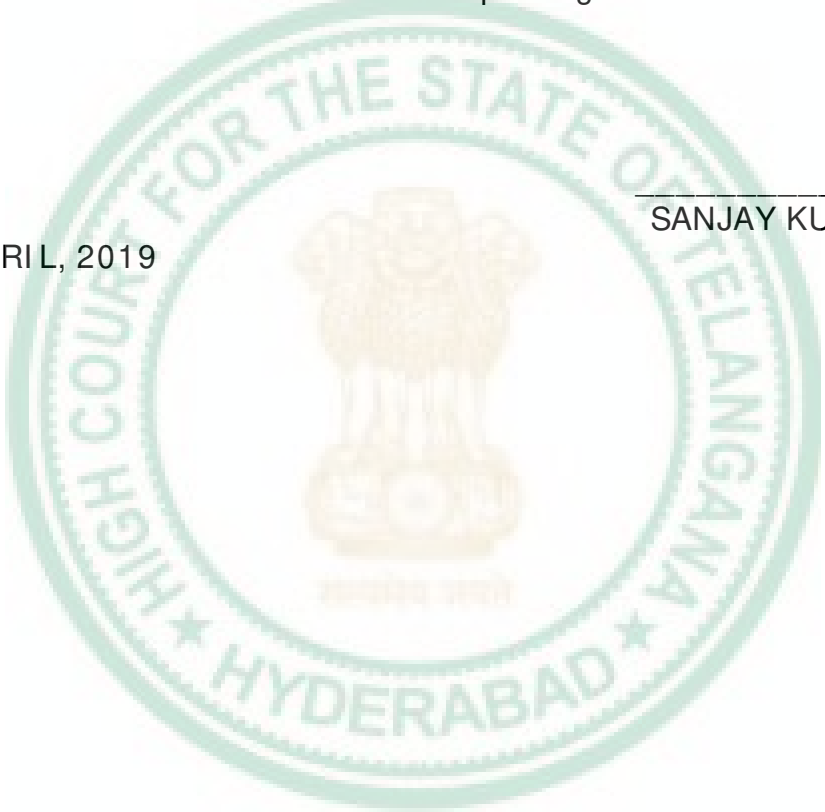
As regards the bail petition, it is not disputed by Sri Kondadi Ajay Kumar, learned counsel, that the petitioner/A1 absconded at the stage of his examination under Section 313 CrPC. According to him, the petitioner/A1 was suffering from ill-health. However, no evidence was produced in proof of this statement, be it before the Sessions Judge or before this Court. This Court is further informed that the Sessions Case is

now at the stage of arguments. That being so and given the past conduct of the petitioner/A1, this Court is not inclined to extend any indulgence to him at this stage. It would suffice if the learned Metropolitan Sessions Judge, Hyderabad, completes the hearing of the Sessions Case and passes final orders therein expeditiously.

In the result, Criminal Petition No.1936 of 2019 is dismissed and Criminal Petition No.2019 of 2019 is disposed of requesting the learned Metropolitan Sessions Judge, Hyderabad, to expedite the hearing and disposal of Sessions Case No.347 of 2017 pending on his file.

24th APRIL, 2019

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SANJAY KUMAR, J