

HON'BLE JUSTICE G. SRI DEVI

CRIMINAL REVISION CASE No.928 of 2019

ORDER:

This Criminal Revision Case under Sections 397 and 401 of Cr.P.C. is filed by the petitioners/A.1, A.2, A.5, A.6 and A.7 seeking to set aside the order dt.22.06.2019 in CrI.M.P.No.545 of 2019 in C.C.No.452 of 2013 (Crime No.106 of 2013 of Wanaparthi Rural Police Station) passed by the learned Judicial Magistrate of First Class, Wanaparthi, Mahabubnagar District, whereby the petition filed by respondent No.1/Prosecution seeking to re-open the evidence of prosecution and to recall the evidence of witness LWs.1 to 12 was allowed by the Court below.

Heard Sri G. Madhusudhan Reddy, learned counsel for the petitioners/A.1, A.2, A.5, A.6 and A.7 and the learned Additional Public Prosecutor appearing for the respondent No.1. Perused the material on record.

Learned counsel for the petitioners submits that the impugned order dt.22.06.2019 passed by the Court below is contrary to law and facts of the case. It is contended that though the learned Assistant Public Prosecutor appeared on 09.01.2019, he did not conduct cross-examination of LW.1 and hence the Court below closed the evidence of LW.1. It is also contended that the Court below failed to consider the fact that in spite of granting sufficient opportunity, the learned Additional Public Prosecutor has not examined LWs.1 to 12

and without considering all these aspects, the Court below mechanically and without proper appreciation of the case has allowed the application filed by the Prosecution by recalling the evidence of witnesses LWs.1 to 12 and hence the same is liable to be set aside.

On the other hand, the learned Additional Public Prosecutor appearing for the 1st respondent opposed the relief sought in this revision.

A perusal of the record discloses that the application in Crl.MP.No.545 of 2019 in C.C.No.452 of 2013 under Section 311 of Cr.P.C. was filed by the Prosecution specifically stating that as the police has not served summons to LWs.1 to 12, they could not attend the Court on the respective dates to depose their evidence as the learned Additional Public Prosecutor was not appointed, however, the Court below closed the evidence of LWs.1 on 09.01.2019, LWs.2 and 3 on 23.01.2019, LWs.4 and 5 on 30.01.2019; LWs.6 and 7 on 06.02.2019 and LWs.8 to 12 on 13.02.2019 and posted the matter for further proceedings. It was also contended that the evidence of LWs.1 to 12 is very much essential to prove the case of the prosecution and the Court has got ample powers to call and examine any witness at any stage of the case. The Court below after considering the respective submissions allowed the said application vide order dt.22.06.2019 observing that the evidence of witnesses was closed after giving sufficient time for service of summons and

due to the lapse on the part of prosecuting agency, the evidence of some of the witnesses, who are parties to the counter case also could not be recorded and that the defacto complainant cannot be suffered due to the lapse of the prosecution. Therefore, the impugned order dt.22.06.2019 does not appear to be erroneous or illegal and the petitioners failed to show any reason that the impugned order suffers from any illegality or irregularity warranting interference by this Court.

For the aforesaid reasons, this Criminal Revision Case is devoid of merits and the same is liable to be dismissed.

Accordingly, this Criminal Revision Case is dismissed, at the admission stage.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE G. SRI DEVI

23.08.2019.
Msr

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