

HONOURABLE JUSTICE G.SRI DEVI

CRIMINAL PETITION No. 926 of 2020

ORDER:

The present Criminal Petition is filed by the petitioners/ A-1 and A-2 under Section 482 of Cr.P.C., seeking to quash the order, dated 24.01.2020 passed in CrI.M.P.No.6 of 2020 in S.C.No.536 of 2017 on the file of the Fast Track Special Judge for Trial of Cases under POCSO Act-cum-IX Additional District and Sessions Judge (FTC), Ranga Reddy District at L.B.Nagar, wherein and whereunder, the petition filed under Section 311 of Cr.P.C. to recall PWs.1 to 3 for further cross-examination was dismissed.

The facts of the case in brief are that the petitioners were tried for the offences punishable under Sections 376 (2) (h) (f), 354, 374, 375 (e) of IPC, Section 3 read with 4 of the Prevention of Children from Sexual Offences Act, Section 3 (2) (v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015, Sections 16 and 18 of the Bonded Labour Abolition Act and Sections 75 and 79 of the Juvenile Justice (Care and Protection of Children) Act, 2015. After cross-examination of P.Ws.1 to 3, the petitioners/ A-1 and A-2 filed an application under Section 311 of Cr.P.C. stating that some new facts regarding the age and caste of the victim and other facts were brought on record during the evidence of other witnesses and prayed to recall P.Ws.1 to 3 for their further cross-examination. A counter came to be filed by the respondent-State stating that P.Ws.1 to 3 were cross-

examined at length and the application is filed only to fill up the lacunae in their defence. After considering the rival submissions, the learned trial Judge dismissed the said petition. Questioning the same, the present Criminal Petition came to be filed.

Heard learned Counsel for the petitioners/ A-1 and A-2 and learned Additional Public Prosecutor for the respondent-State.

Learned Counsel for the petitioners/ A-1 and A-2 would submit that during the evidence of mother and aunt of the victim, some new facts were brought on record with regard to the age and caste of the victim apart from other facts, which are most important and also goes to the root of the case and the said facts are to be confronted to P.W.3. The learned trial Judge erroneously dismissed the petition without giving any reasons and without considering the plea of the petitioners.

Per contra, the learned Additional Public Prosecutor for the respondent/ State, opposed the relief sought for in the petition and supported the impugned order.

From a perusal of the material on record, it is revealed that in the petition filed under Section 311 of Cr.P.C., the petitioners/ A-1 and A-2 have stated that during the evidence of mother and aunt of the victim, some new facts are brought on record with regard to the age and caste of the victim. In fact, the learned trial Judge while dismissing the petition was pleased to observe that P.Ws. 1 to 3 were cross-examined at length touching several aspects

including the age and caste of the victim/ P.W.3. It is further observed that the learned Public Prosecutor has rightly submitted that if P.Ws.1 to 3 were allowed to be cross-examined further on the aspects that were brought on record during the evidence of other witnesses the same would amount to filling up the lacunae in the defence of the petitioners, which is not permissible under law. Therefore, the impugned order appears to be based on sound reasoning. Hence, I found that there is no jurisdictional error in the impugned order and that there is no material irregularity or illegality in the order passed by the learned trial Judge.

In the result, the Criminal Petition is dismissed. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

JUSTICE G. SRI DEVI

19.02.2020
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