

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

TUESDAY, THE SECOND DAY OF MARCH
TWO THOUSAND AND TWENTY ONE

PRESENT

THE HONOURABLE SRI JUSTICE K.LAKSHMAN

CRIMINAL PETITION NO: 7236 OF 2020

Between:

Syed Shabi Abbas @ Shabbi @ Zain Abbas, S/o. Syed Hasan Abbas, Aged about 32 years, Occ. Private Employee, R/o. H.No.22-2-622, Opp. Golkhabar Darulshafa, Hyderabad

...Petitioner/Accused

AND

1. The State of Telangana, represented by its Public Prosecutor, High Court at Hyderabad Through Station House Officer, CCS, Hyderabad
2. Kum. Ghazala Ahsan, D/o. Mohammed Imtiaz Ahsan, Aged about 31 years, Occ. Student, R/o. H.No.16-11-16-129/P/A, Afzalnagr, Malakpet, Hyderabad.

...Respondent/Complainant

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to Quash the proceedings in Order dated 16/12/2020 passed in CrI.MP.No.68 of 2020 in SC.No.272 of 2014 on the file of Special Sessions Judge for Fast Track Court to Atrocities against Women-II-CUM-IX Additional Metropolitan Sessions Judge, Hyderabad, by way of recalling the PW-2 and PW-3 for cross examination in the interest of justice.

I.A. NO: 1 OF 2020

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to stay of all further proceedings in S C No 272 of 2014 on the file of Special Sessions Judge for Fast Track Court to Atrocities against Women -II- CUM-IX Additional Metropolitan Sessions Judge, Hyderabad, pending disposal of the Criminal Petition, in the interest of justice.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri M. A. K. Mukheed, Advocate for the Petitioner and the Public Prosecutor on behalf of the Respondent No.1.

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE K. LAKSHMAN

CRIMINAL PETITION No.7236 OF 2020

ORDER:

This petition is filed under Section 482 of Cr.P.C., seeking to quash the order dated 16.12.2020 in CrI.M.P.No.68 of 2020 in S.C.No.272 of 2014 passed by the Special Sessions Judge for Fast Track Court to Atrocities against Women-II-cum-IX Additional Metropolitan Sessions Judge, Hyderabad.

2. Heard learned counsel for the petitioner and learned Public Prosecutor.

3. Learned counsel for the petitioner filed a memo dated 28.01.2021 stating that respondent No.2 is not a necessary party to the present proceedings and hence, he is not pressing the present Criminal Proceedings against respondent No.2.

4. The petitioner herein is the sole accused in S.C.No.272 of 2014. The offences alleged against the petitioner are under Sections 376 and 384 of IPC and Section 66-A of Information Technology Act. The said SC was posted to 13.09.2019 for the purpose of cross-examination of P.W.2 and it was adjourned to 23.10.2019 for the purpose of cross-examination of P.W.3. The petitioner cross-examined P.Ws.2 and 3 in part and sought adjournment for further cross-examination of P.Ws.2 and 3. Thereafter, the earlier counsel appeared for the petitioner in S.C.No.272 of 2014 was appointed as Chairman

of Telangana State Electricity Regulatory Commission and the petitioner filed a memo before the Court below to that effect. With the said pleas, the petitioner filed an application seeking adjournment of S.C.No.272 of 2014. The Court below dismissed the said application and recorded that the cross-examination of P.Ws.2 and 3 as 'nil'. Thereafter, the petitioner filed CrI.M.P.No.68 of 2020 in S.C.No.272 of 2014 under Section 311 of Cr.P.C., to recall P.Ws.2 and 3 for further cross-examination. The Court below dismissed the said application vide impugned order dated 16.12.2020 on the ground that the petitioner failed to cross-examine P.Ws.2 and 3 despite giving opportunity. The adjournment petition filed by the petitioner was also dismissed.

5. A perusal of the impugned order would reveal that the matter was posted to 13.09.2019 and 23.10.2019 for the purpose of cross-examination of P.Ws.2 and 3. Earlier counsel for the petitioner, after cross-examination of P.Ws.2 and 3 in part, sought deferment of the same. Accordingly, the matter was adjourned. Thereafter, the earlier counsel for the petitioner was appointed as Chairman of Telangana State Electricity Regulatory Commission. The petitioner also filed a memo to that effect.

6. A perusal of the impugned order also would reveal that the petitioner has filed adjournment application on the very next date of hearing and also an application under Section 311 of Cr.P.C., to recall P.Ws.2 and 3. It appears from the

impugned order that, without considering the said facts, the Court below dismissed the said application vide impugned order. The Hon'ble Apex Court and this Court time and again held that the Courts have to adopt liberal approach in dealing with the applications filed under Section 311 of Cr.P.C. In the present case, the petitioner has informed the Court below about appointment of his earlier counsel as Chairman of Telangana State Electricity Regulatory Commission. It appears from the record that there is no delay on the part of the petitioner.

7. Considering the said facts, the Criminal Petition is allowed and the order dated 16.12.2020 in CrI.M.P.No.68 of 2020 in S.C.No.272 of 2014 passed by the Special Sessions Judge for Fast Track Court to Atrocities against Women-II-cum-IX Additional Metropolitan Sessions Judge, Hyderabad, is quashed. Consequently, CrI.M.P.No.68 of 2020 in S.C.No.272 of 2014 is allowed and the Court below shall permit the petitioner to further cross-examine P.Ws.2 and 3. The petitioner shall complete the cross-examination of P.Ws.2 and 3 on or before 26.03.2021, failing which, the Court below shall proceed further in the matter in accordance with law. Miscellaneous petitions pending, if any, in this Criminal Petition, shall stand closed.

SD/-T.KRISHNA KUMAR
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Special Sessions Judge for Fast Track Court to Atrocities against Women-II -CUM-IX Additional Metropolitan Sessions Judge, Hyderabad.
2. The Station House Officer, Police Station CCS, Hyderabad.
3. Two CCs to the Public Prosecutor, High Court for the State of Telangana at Hyderabad [OUT]
4. One CC to Sri M. A. K. Mukheed, Advocate [OPUC]
5. Two CD Copies

MMK
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HIGH COURT

DATED:02/03/2021



ORDER

CRLP.No.7236 of 2020

ALLOWING THE CRIMINAL PETITION.

PRK
14/03
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