

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

**FRIDAY, THE ELEVENTH DAY OF MARCH
TWO THOUSAND AND TWENTY TWO**

**PRESENT
THE HONOURABLE SRI JUSTICE K.LAKSHMAN**

CRIMINAL PETITION NO: 2277 OF 2022

Between:

V. Veeresh Partner Sri Veerabadra, age.45yrs, Medical and General Stores, Shop No.3, GP Complex, Achampet, Mahabubnagar District.

...PETITIONER/ACCUSED

AND

State of Telangana, rep. by P.P. High Court for the State of Telangana at Hyderabad.

...RESPONDENT

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 Order in CrI.M.P.1341 of 2021 in C.C.No.15 of 2010, dated 24-02-2022 on the file of Judicial Magistrate of First Class at Achampet and consequently allow the petitioner to further cross examine PW2 .

I.A. NO: 1 OF 2022

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 C.C.No.15 of 2010 CrI.M.P.1341/2021 dt.24-02-2022 on the file of Judicial Magistrate of First Class at Achampet.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri P. PRABHAKAR REDDY, Advocate for the Petitioner and the Public Prosecutor (TG) on behalf of the Respondent.

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE K.LAKSHMAN

CRIMINAL PETITION No.2277 OF 2022

ORDER:

This Criminal Petition under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'], is filed seeking to quash the proceedings in CrI.M.P.No.1341 of 2021 in C.C.No.15 of 2010, pending on the file of Judicial Magistrate of First Class, Achampet. The petitioner herein is sole accused in the said crime. The offence alleged against him is under Section 27 (c) of Drugs and Cosmetics Act (for short 'the Act') for the contravention made under Section 18 (a) (1) read with Section 16, 27(d) and 17 (b) of the Act.

2. Heard the learned counsel for the petitioner and learned Assistant Public Prosecutor for the respondent. Perused the record.

3. The petitioner herein had filed a petition under Section 311 of Cr.PC vide CrI.M.P. No.1341 of 2021 to recall P.W.2 for further cross-examination on the ground that he is a crucial witness. Though liberty was given to the petitioner by allowing the earlier application, the petitioner herein could not avail the same due to unavoidable circumstances. According

to the petitioner, certain important aspects have to be elicited from P.W.2. The said application was resisted by the respondent. The Court below has dismissed the said application vide impugned order dated 24.02.2022. Challenging the same the petitioner herein filed the present petition.

4. A perusal of the record would reveal that the Calendar Case is of the year 2010 and the trial was commenced on 17.02.2012 itself. Thereafter, matter was posted for arguments on 26.04.2018 on which date the petitioner herein had filed a petition under Section 311 of Cr.PC vide CrI.MP. No.783 of 2019 seeking to recall P.Ws. 1, 2 and 4. The said application was allowed, P.W.2 was recalled and the petitioner was permitted to cross-examine P.W.2 on 28.02.2022. But the petitioner failed to avail the said opportunity. Therefore, referring to the same, the Court below dismissed the application filed by the petitioner herein.

5. While dealing with the application filed under Section 311 of Cr.P.C, the Court has to consider the following three aspects:-

- (1) Whether the said witness sought to recall is necessary to come to just conclusion ?
- (2) Whether the prosecution has filed the said application to fill up the lacunas ?
- (3) Whether the accused has filed the said application to drag on the proceedings ?

6. In the present case, the Calendar Case is of the year 2010 and the petitioner herein had filed the present application in the year 2021. Therefore, according to this Court, on consideration of the entire facts, the Court below rightly dismissed the said application filed by the petitioner. It is a reasoned order and well founded. Thus, there is no need to interfere with the impugned order.

7. In view of the above discussion, this Criminal Petition is liable to be dismissed and accordingly the same is dismissed. Considering the fact that the CC is of the year 2010, learned Magistrate is directed to dispose of the said CC in accordance with law, as expeditiously as possible.

Miscellaneous Petitions, if any, pending, shall also stand

//TRUE COPY//

SD/-T.KRISHNA KUMAR
ASSISTANT REGISTRAR

SECTION OFFICER

- To,
1. The Judicial Magistrate of First Class at Achampet, Mahabubnagar District.
 2. The Assistant Director, I/c. Drugs Inspector, Mahabubnagar.
 3. Two CCs to Public Prosecutor, High Court at Hyderabad for the State of Telangana (OUT)
 4. One CC to SRI P. PRABHAKAR REDDY, Advocate [OPUC]
 5. Two CD Copies
 6. One Spare Copy

HIGH COURT

DATED: 11/03/2022

ORDER

CRLP.No.2277 of 2022



DISMISSING THE CRL.PETITION.

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Hv4