

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

**TUESDAY, THE TWENTY NINTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY TWO**

PRESENT

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION NO: 10563 OF 2022

Between:

P. Manoj Kumar, s/o Late Shankar Aged 33 years, Occ. Business, r/o 10-1-65/1/136, Thrimurthy Colony, Lingoiguda, Saroornagar, RR district

**...Petitioner/
Sole Accused**

AND

1. The State of Telangana, Rep by its Public Prosecutor, High Court of Judicature at Hyderabad. for the State of Telangana and State of Andhra Pradesh.
2. The Assistant Public Prosecutor, Hon'ble Spl. JFCM-cum-Excise Cum V Addl. Metropolitan Magistrate, Cum-V AJCJ at L.B Nagar, RR District
3. Sri G. Venkatesh, s/o Kathalappa Aged 55 yrs, Occ. Business, R/o H.No. 11-2-81, Near Chowdi, Saroornagar, RR District 035, Telangana State

**...Respondents/
Defacto 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 call for the records related to impugned order in CrI.M.P.No. 250 of 2020 in CC No. 1130 of 2015, dated 7-11-2022 passed by Spl. Judicial First Class Magistrate-cum-Excise-cum V Addl. Metropolitan Magistrate, Cum-V AJCJ at L.B Nagar, RR District, set aside the same

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 all further proceedings in CC No. 1130 of 2015, v Spl. JFCM-cum-Excise-Cum V Addl. Metropolitan Magistrate-cum-V AJCJ at L.B Nagar, RR District.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri B. SARAMMA, Advocate for the Petitioner and of the Public Prosecutor (TG) on behalf of the Respondent No. 1 and none appeared for the Respondent No. 2

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE K.SURENDER**CRIMINAL PETITION No.10563 OF 2022****ORDER:**

This Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') by the petitioner seeking to set aside the impugned order dated 07.11.2022 passed by Special Judicial First Class Magistrate cum Excise cum V Additional Metropolitan Magistrate cum V Additional Junior Civil Judge at L.B. Nagar, Ranga Reddy District, in Crl.M.P.No.250 of 2020 in C.C.No.1130 of 2015 and recall PW3 for the purpose of cross examination.

2. Heard. Perused the record.
3. The petitioner is questioning the correctness of dismissal of aforesaid petition filed under Section 311 of Cr.P.C. The witness-LW3 was examined as PW3 on 22.01.2019 and at the time of cross examination, as the petitioner-accused failed to cross examine PW3, cross examination of PW3 was closed. Subsequently, the evidence of PW3 was eschewed as the

prosecution failed to produce PW3. Again the present application was filed which was dismissed by the learned Magistrate.

4. Learned counsel for the petitioner submits that PW3 who is a prosecution witness is in fact necessary to be examined during the course of cross examination. The petitioner intends to elicit certain issues by cross examining PW3 which would prove his defence.

5. In the event of the petitioner examining the said witness viz., V.Ramulu Goud in defence, the concerned Court shall permit to examine the said witness in defence. Needless to say, only for the reason of the witness being a defence witness, his evidence cannot be brushed aside. Both the prosecution and defence witnesses stand on the same footing and has to be considered accordingly. Further, the petitioner-accused is directed to cross examine PW3 on the date fixed by the learned Magistrate and shall not take unnecessary adjournments.

6. Accordingly, Criminal Petition is allowed by setting aside the impugned order dated 07.11.2022 passed by Special Judicial First Class Magistrate cum Excise cum V Additional Metropolitan Magistrate cum V Additional Junior Civil Judge at L.B. Nagar, Ranga Reddy District, in Crl.M.P.No.250 of 2020 in C.C.No.1130 of 2015 and PW3 is recalled for the purpose of cross examination.

Miscellaneous Petitions, pending if any, shall stand closed.

//TRUE COPY//

Sd/- I. NAGA LAKSHMI
DEPUTY REGISTRAR
SECTION OFFICER

To,

1. The Spl. Judicial First Class Magistrate-cum-Excise-cum-V Additional Metropolitan Magistrate-cum-V Additional Junior Civil Judge at L.B. Nagar, RR District.
2. Two CCs to the Public Prosecutor, High Court for the State of Telangana at Hyderabad. (OUT)
3. One CC to Sri B. SARAMMA, Advocate [OPUC]
4. Two CD Copies.

Njb
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HIGH COURT

KS,J

DATED:29/11/2022



ORDER

CRLP.No.10563 of 2022

ALLOWING THE CRIMINAL PETITION.

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