

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION No.9183 OF 2022

O R D E R:

This Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') by the petitioners/A1 to A5 to quash the order dated 19.09.2022 passed by the II Additional Assistant Sessions Judge, Medchal-Malkajiri District at Malkajiri in CrI.M.P.No.78/2022 in S.C.No.136 of 2022 (old S.C.No.584/2013), wherein and whereby the learned Sessions Judge dismissed the petition filed by the Accused Nos. 1 to 5 to recall PWs.1 to PW8 and PWs.10 to PW13, for cross examination by their counsel.

2. Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the respondent – State. Perused the record.

3. Petitioners herein are Accused Nos.1 to 5 in the prosecution for the offence punishable under Section 307 of the Indian Penal Code i.e. Attempt to Murder, and other offences.

4. The case of the prosecution is that while PW5 was proceeding on his bike, the accused allegedly sprinkled chilli

powder and attacked with sickles on his head and shoulders. The incident happened in the year 2011. However, after charge sheet being filed, the trial has commenced on 13.08.2018. According to the counsel appearing for the petitioners, the trial before the concerned Court is yet to be completed and till date 15 witnesses were examined. For the reason of not cross-examining the witnesses, the counsel filed petition for cross-examination of PWs.1 to 8 and PWs.10 to 13.

5. Learned Sessions Judge by order dated 19.09.2022, refused the prayer for cross-examining the witnesses on the ground that the petitioners have not taken any steps to cross-examine the witnesses, till date and there is no sufficient cause shown for the delay caused to cross-examine the witnesses.

6. The depositions of the witnesses are filed before this Court. As seen from the depositions, PWs.1 to 3, 5, 11, 12 and 13 were not cross examined at all, though, time was taken by the counsel. Since the case is serious in nature and if convicted, the petitioners may be sentenced for 10 years or upto life, this Court deems it appropriate to afford an opportunity to defend themselves. Since the witnesses are specifically stated

that these petitioners were responsible for causing injury, failure to cross-examine these witnesses would result in causing prejudice to the defence of the accused.

7. However, keeping in view the delay caused by the accused in conducting trial, this Court deems it appropriate to direct the accused to pay costs of Rs.10,000/- to each of the witnesses i.e. PWs.1 to 3, PW5, PW11, PW12 & PW13, who shall be recalled for the purpose of cross-examination. The cross-examination should be completed on the very same day and on failure to cross-examine when the witness is present, no further time shall be given for cross-examination of such witnesses. The Sessions Judge is at liberty to grant time beyond the date fixed for cross-examination for reasons to be recorded in writing.

8. With the above directions, the Criminal Petition is disposed off.

Miscellaneous applications pending, if any, shall stand closed.

K.SURENDER, J

Date: 27.02.2023
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Dt. 27.02.2023

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