APHC010019422025

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3368]
(Special Original Jurisdiction)

THURSDAY, THE SIXTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE B V L N CHAKRAVARTHI

CRIMINAL PETITION NO: 374/2025

Between:

Matham Vijaya Rao and Others **...PETITIONER/ACCUSED(S)**

AND

The State Of Andhra Pradesh **...RESPONDENT/COMPLAINANT**

Counsel for the Petitioner/accused(S):

1. GOLLAMUDI NAGASATYANARAYANA

Counsel for the Respondent/complainant:

1. PUBLIC PROSECUTOR

The Court made the following order:

This Criminal Petition is filed by the petitioners herein/A1 & A2 under Section 482 of Cr.P.C., to set-aside the Order dated 06.12.2024 in Crl.M.P.No.7763 of 2024 in C.C.No.315 of 2020 on the file of Additional Civil Judge (Senior Division)-cum-Additional Chief Judicial Magistrate, Gajuwaka, Visakhapatnam.

2. Heard learned counsel for the petitioners and learned Additional Public Prosecutor representing for the respondent/State.

3. Learned counsel for the petitioners would submit that the petitioners/Accused Nos.1 & 2 filed an application under Section 311 Cr.P.C., to recall the PW-1 for further cross-examination, with reference to the unregistered sale documents dated 31.05.2010 and 27.06.2011. He would further submit that the copies of those two documents were not collected by the investigation officer, during the course of investigation of the case and they filed before learned Magistrate along with charge sheet only. Unfortunately, they were not supplied to the petitioners under Section 207 Cr.P.C., and therefore, the petitioners do not know about the availability of those two documents, before the learned Magistrate, when PW-1 was examined. But later, during the evidence of investigation officer (PW-9), it came to light that the above two documents were available on record as they were filed by the investigation officer. Immediately, the petitioners filed an application under Section 207 Cr.P.C., to supply the copies of those two documents also and the said application was allowed by the learned Magistrate. Copies of those two documents were provided to the petitioners. Therefore, the petitioners intend to further cross-examine the PW-1, with reference to the above two documents and filed the impugned application under Section 311 Cr.P.C. But the learned Magistrate refused the request of the petitioners, on the ground that the petitioners were aware about the existence of those two documents,

but they did not take steps to cross-examine the PW-1 earlier, with reference to the said documents.

4. It appears that the copies of the above two documents were placed on record by the investigation officer along with the charge sheet before the learned Magistrate and copies of those two documents were not provided to the petitioners under Section 207 of the Cr.P.C., at the earlier stage. Later availability of those two documents came to light, during the evidence of investigation officer/PW-9 which took place subsequent to the examination of PW-1. Therefore, undisputedly petitioners could not cross-examine PW-1, with reference to those two documents, initially.

5. Considering the facts and circumstances discussed above, this Court is of the considered opinion that the impugned order of the learned Additional Civil Judge (Senior Division)-cum-Additional Chief Judicial Magistrate, Gajuwaka, Visakhapatnam, is liable to be set-aside.

6. In the light of the foregoing discussion, the Criminal Petition is allowed directing the learned Additional Civil Judge (Senior Division)-cum-Additional Chief Judicial Magistrate, Gajuwaka, Visakhapatnam to fix a date, for further cross-examination of PW-1, with reference to the above two documents only and not for any other purpose. On the said

date, the petitioners/accused Nos.1 & 2 shall conclude further cross-examination of PW-1, with reference to the above two documents, without fail.

As a sequel, interlocutory applications pending, if any, shall stand closed.

JUSTICE B.V.L.N.CHAKRAVARTHI

Date: 06.02.2025
RMD/PSA

THE HONOURABLE SRI JUSTICE B.V.L.N. CHAKRAVARTHI

Criminal Petition No:374 OF 2025

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RMD/PSA