

HIGH COURT OF ANDHRA PRADESH:: AMARAVATI

ROC.NO.520/SO/2023

Date.30.08.2023

CIRCULAR NO. 12 /2023

Sub: High Court of Andhra Pradesh – Order dated 26-07-2023 in Criminal Petition No.6755 of 2014 passed by the High Court of Andhra Pradesh – Certain directions to ACB/CBI courts -Issued - Reg.

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While dealing with the scope and object of Section 311 of Cr.P.C, and relying on the decisions of the Hon'ble Supreme Court in P. Sanjeeva Rao Vs. State of Andhra Pradesh, (2012), 7 SCC 56, Natasha Singh Vs. Central Bureau of Investigation, (2013), 5 SCC 741, Rajaram Prasad Yadav Vs. State of Bihar and another (2013), 14 SCC 461, the High Court of Andhra Pradesh in the order dated 26.07.2023 in Criminal Petition No.6755 of 2014, observed as under:

- "19. *In the light of the above legal position, the trial Court ought to have allowed the petition to reopen and recall the evidence of L.Ws.13 and 14, who are Trap Laying Officer and the Accompanying Witness respectively, to enable the prosecution to adduce evidence and meet the requirement of fair trial. If the trial Court denied to lead the evidence of the above witnesses, definitely, it cannot be treated as a fair trial. Therefore, the Order of the trial Court cannot be sustained in the light of the legal positions referred to supra. Thus, in the opinion of this Court, the impugned Order is contrary to the scope and ambit of Section 311 Cr.P.C., and also the principles laid down by the Hon'ble Apex Court in the decisions referred to supra."*
20. *Further, the instant case is under the Prevention of Corruption Act. L.Ws.13 and 14 are very crucial witnesses for the discovery of relevant facts about the laying of trap and seizure of the bribe amount and material objects etc. On perusal of the record, the trial Court has not taken any coercive steps to secure the presence of those witnesses. In spite of the Circulars issued by the High Court not to close the official*

witnesses unless and until coercive steps are taken by addressing letters to the Higher Authorities concerned, the evidence of those witnesses was closed. In a case of this nature, if the evidence of such witnesses is closed, entire exercise of the Investigation Agency would turn futile and also it leads to entertaining a doubt about the integrity of the trial Judge. If such instances arise in the case of this nature in future, the ACB or CBI as the case may be, has to take judicial remedial measures in accordance with law. It is desirable to issue appropriate Circular by the High Court to all the trial Judges, who are dealing with CBI/ACB cases, not to close the evidence of Trap Laying Officer or official witnesses hastily without exhausting all the measures in securing the presence of the witnesses for their evidence. In this regard, the Registrar General may take appropriate steps for the issuance of such circular."

In view of the categorical observations and directions, all the Presiding Officers who are dealing with CBI/ACB cases are instructed not to close the evidence of Trap Laying Officers or official witnesses hastily without exhausting all the measures in securing the presence of the witnesses for their evidence.

Any deviation in this regard will be viewed seriously.

The receipt of the circular shall be acknowledged.

y. Lakshmanar Rao
30/08/2023.

REGISTRAR GENERAL

To:

1. The Principal Secretary to the Hon'ble the Chief Justice (for information).
2. All the Registrars, High Court of Andhra Pradesh.
3. The Registrar (I.T. cum C.P.C.) with a request to direct the concerned to upload the said circular in the High Court's website.
4. All the Unit Heads in the State of Andhra Pradesh with a request to cause circulation among all the Judicial Officers in the unit.