

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO
CRIMINAL PETITION No.5833 of 2015

ORDER :

This Criminal Petition is filed by the Petitioner/accused No.2 under Section 482 Cr.P.C seeking to quash the proceedings in C.C. No.77 of 2015 on the file of IV Additional Chief Metropolitan Magistrate, Vijayawada, Krishna District, registered for the offences punishable under Sections 406 and 477 r/w 34 IPC and Section 7 (c) of Essential Commodities Act.

2) Heard learned counsel for the petitioner/accused No.2 and learned public prosecutor for 1st respondent—State before admission and before ordering any notice to de facto complainant—2nd respondent. Perused the material on record.

3) As the material falls short even from part-II CD for this Court to admit the application filed under Section 482 Cr.P.C, the Criminal Petition is disposed of, giving liberty to petitioner to move the trial Court by filing an application under Section 239 Cr.P.C if there are no grounds to frame any charge for the learned Magistrate to pass appropriate orders only from the prosecution material as laid down by the Apex Court in ***State of Orissa vs. Debendra Nath Padhi***^[1]. Needless to say, in the event of framing charges, the petitioner is given liberty

to file an application under Section 205 Cr.P.C to represent through Special Vakalath holder and the learned Magistrate shall hear and consider with necessary conditions.

4) Miscellaneous petitions, if any pending, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Dt.03.07.2015
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HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

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Date: 19.06.2015

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giving liberty to petitioners to move the trial Court by filing an application under Section 239 Cr.P.C to consider only from the prosecution material before the trial Court as laid down in ***State of Orissa vs. Debendra Nath Padhi***^[2] and to decide independently on own merits. Needless to say in the event of framing charges, the petitioners are given liberty to file an application under Section 205 Cr.P.C because they are claiming that being senior citizens more than 70 years and they are unable to attend the Court for regular adjournments to represent through Special Vakalath holder and the learned Magistrate shall hear and permit their representation through Special Vakalat holder to face the trial.

[\[1\]](#) AIR 2005 SC 359

[\[2\]](#) AIR 2005 SC 359