

***HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO**

+CRIMINAL PETITION No.2609 OF 2015

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% Dated 17.07.2015

Between:

Saagi Venkata Narasimha Raju and another ...Petitioners

and

\$ The State of Telangana rep. by its

Public Prosecutor, and another Respondents

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! Counsel for the petitioners : M/s.S.V.R.Subrahmanyam

^ Counsel for 1st respondent : Public Prosecutor

Counsel for 2nd respondent : M/s. Srinivas Polavarapu

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? Cases referred: _____ :

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[1] . AIR 2001 SC 2637 (2001 Cr.J 3329)

2. (2002(1) SCC 714 : (2002 CrI.LJ 923)

3. 2007 CrI.LJ 472

4. 2006 CrI.L.J. 2757

5.1992 Supplementary 1 SCC 378 and 379

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THE HONOURABLE Dr.JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.2609 of 2015

ORDER:

This petition is filed under Section 482 of the Code of Criminal Procedure (for short, 'the CrPC') by the Petitioners-A.1 and 2 no other than the father and daughter of whom the 2nd petitioner is no other than the wife of the 2nd respondent herein in Cr.No.50 of 2015 on the file of the Begumpet Police Station, Secunderabad, registered for the offences punishable under Sections 409 and 420 I.P.C read with 156(3) Cr.P.C. on the report of the 2nd

respondent-complainant filed before the XI Additional Chief Metropolitan Magistrate at Secunderabad, who forwarded for investigation under Section 156(3) of Cr.P.C. praying to quash the proceedings in said crime.

2. Heard the learned counsel for the petitioners/A.1 and A.2 so also the learned Public Prosecutor representing State-1st respondent before admission and before ordering notice to the 2nd respondent/de facto-complainant and perused the material on record.

3.The factual background further is that earlier 2nd respondent herein filed a report dated 26.05.2014 to the self-same Station House Officer, against the petitioners 1 and 2 herein and the Cr.No.560 of 2014 IW/BPE/PS/2014/2915/2014 dated 29.05.2014 was registered and the police after investigation referred the same as of a civil nature.

4. No doubt, once a crime is registered on the report of the 2nd respondent herein against the petitioners for the same offences covered by Sections 405 and 420 I.P.C. and after investigation filed a final report referring as civil nature from combined reading of Section 169 and 170 read with 173 and on the referred report irrespective of said opinion of the police, the Magistrate may consider the entire material and apply his mind and come to independent conclusion either to accept the referred report and discharge the bonds of the accused referred under Section 173(4) of Cr.P.C. or to take cognizance under Section 190 of Cr.P.C. Needless to say, the police in filing of referred report have to issue notice to the defacto complainant. Irrespective of police given or not the Magistrate while accepting opinion of the police in the referred report and not chosen to defer with police opinion, for taking cognizance has to issue notice to the defacto-complainant. The remedy of the defacto-complainant therefrom is to file protest application and therefrom the learned Magistrate can proceed to enquire as a private complaint case following the procedure under Section 200 read with 202 Cr.P.C. and thereafter under Section 203 or 204 or 201 Cr.P.C. if not as the case may be. Here, the case is as simply as like the

above. It is for the reason that earlier 2nd respondent already filed a private complaint under Section 200 Cr.P.C. on the file of the Additional Judicial Magistrate of First Class, Vizianagaram against 11 accused persons of whom the petitioners 1 and 2 are arrayed as A.6 and A.11 respectively and the offences are punishable under Sections 409, 419, 420, 467, 468, 471, 474 read with 34 of I.P.C. It is when the learned Magistrate concerned forwarded under Section 156(3) of Cr.P.C. said complaint for investigation to the concerned Station House Officer, Bogapuram, Vijayanagaram district. The police registered the crime vide Cr.No.102 of 2014 dated 20.05.2014 and the investigation is still pending for no final report under Section 173 Cr.P.C. in the form of chargesheet or as referred report filed so far.

5. The Cr.No.102 of 2014 of Bogapuram Police Station and the Cr.No.560 of 2015 of Begumpet Police Station were prior to 02.06.2014. Needless to say with effect from that date, the United State of Andhra Pradesh is divided into two States another as State of Telangana, it is for the said reason that the Begumpet Police Station where Cr.No.560 of 2014 registered on 29.05.2014 is now within the state of Telangana and the Bogapuram Police Station of Vijayanagaram is in that State of Andhra Pradesh still. Once self-same 2nd respondent filed a private complaint before the Magistrate, Vijayanagaram and referred to police and Cr.No.102 of 2014 dated 20.05.2014 is registered under Section 156(3) and issued First Information Report for the cognizable offence and started investigation, on the self-same facts the another report given by him to the Begumpet police on 26.05.2014 which is nothing but abuse of process even the earlier report is against 11 accused including the petitioners herein but the present report is against the petitioners 1 and 2 alone herein. For the facts when covered in both the matters about his sending of amounts into NRE account of his mother who is no other than the sister of the 1st petitioner herein and out of her illiteracy, the 1st petitioner was assisting her in withdrawal of the amounts as and when required by her for her necessities as per the petitioners in so alleging.

6. It is needless to say the law is fairly settled more particularly from the

expression of the Apex Court in **T.T.Antony Vs. State of Kerala**^[1] in batch cases with observations regarding to the scope of Sections 154 to 157, 162, 169, 170 and 173 Cr.P.C. that once the information first in point of time in respect of a cognizable offence is registered as First Information Report to investigate, every subsequent information in respect of the same occurrence, there could be no second First Information Report and no fresh investigation. The only information about commission of cognizable offence first entered in any Station by the Station House Officer when can be regarded as First Information Report under Section 154 of Cr.P.C. of subsequent informations will be covered only under Section 156 of Cr.P.C. as the officer in charge of police station based on information first in point of time registered crime has to investigate not only cognizable offence but all other connected offences found to have been committed if any in relation to the occurrence or transaction/transactions, can submit final reports one or more than one under Section 173 including after filing of final report under Section 173(2) if come across any further information also another final report but for at best the normal course with the leave of Court to accept the further material collected, by virtue of power under Section 173(8) Cr.P.C. The sum and substance of the expression is that even any subsequent crime registered, the value is under Section 162 of Cr.P.C. and cannot be called as First Information Report with any value under Section 154 of Cr.P.C. It is to say the second report and for second registration of crime and fresh investigation is abuse of process of law. The above expression quoted with approval by the Apex Court later in **Kari Chowdhary Vs. Mst. Sitadevi**^[2] referring to the above expressions, in **Ramachandra Yadav Vs. State of Jharkhand**^[3], explanation of the Jharkhand High Court, **Jathiwanth Singh Vs. State of Panjab**^[4], single Judge expression of Punjab and Haryana, Subsequent First Information Reports, were quashed as abuse of process by referring to Catena of expressions including **State of Haryana Vs. Bhajanlal**^[5], 7 guidelines particularly by page 102.=1992 Crl.J.527 = 1992 SCC Crl.426. Even the 2nd respondent appear through an

advocate but it is not the case that the report covered by Cr.No.102 of 2014 on the file of Bogapuram Police Station of Vizianagaram and the report covered by Cr.No.560 of 2014 on the file of Begumpet Police Station, Secunderabad are entirely on different facts relating to different offences, one is unconnected to the other even. Having regard to the above, the proceedings in Cr.No.50 of 2015 are liable to be quashed.

7. With the above observations, the Criminal Petition is allowed and the proceedings in Cr.No.50 of 2015 are quashed. Needless to say any further remedy of the 2nd respondent is to submit any further material in relation to the Cr.No.102 of 2014 pending before Bogapuram Police Station for forming part of the investigation pending or to conduct any further investigation, if any, final report already filed, as per Section 173(8) Cr.P.C. with intimation to the learned Magistrate concerned by the police concerned. The bail bonds of the petitioners/A.1 and A.2 shall stand cancelled in crime No.50 of 2015 = 560 of 2014 of Begumpet Police Station forwarded by the XI Add.Chief Metropolitan Magistrate.

8. Consequently, miscellaneous petitions, if any, pending in this Criminal Petition shall stand closed.

Dr. B.SIVA SANKARA RAO J,

Date:17.07.2015

Note: L.R. copy to be marked.
B/o. Vvr.

[\[1\]](#) AIR 2001 SC 2637 (2001 Cr.J 3329)

[\[2\]](#) (2002(1) SCC 714 : (2002 Cr.LJ 923)

[\[3\]](#) 2007 Cr.LJ 472

[\[4\]](#) 2006 Cr.L.J. 2757

[\[5\]](#) 1992 Supplementary 1 SCC 378 and 379