

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.5179 of 2015

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ORDER :

This criminal petition is filed by the petitioner/A.3 under Section 482 Cr.P.C seeking to quash the proceedings in C.C.No.164 of 2013 on the file of the learned IX Additional Chief Metropolitan Magistrate at Hyderabad, where the learned Magistrate has taken cognizance of the offence punishable under Section 420 read with 34 IPC and the petitioner and two others.

2. Heard the learned counsel for the petitioners as well as the 1st respondent-State represented by the Public Prosecutor before admission and before ordering any notice to the 2nd respondent and perused the material on record.

3. As the material falls short for this Court even to admit the application under Section 482 Cr.P.C., the same is disposed of giving liberty to the petitioner to move an application under Section 239 Cr.P.C. before the learned Magistrate, if there are no grounds to frame charges under Section 240 Cr.P.C. or to seek discharge, the learned Magistrate there from to consider only from the prosecution material on own merits as laid down by the Apex Court in **State of Orissa v. Debendranath Padhi**^[1] and pass appropriate orders. Needless to say further, if filed any application by the petitioner under Rule 37 of the

Criminal Rules of Practice, the learned Magistrate shall hear and consider with necessary conditions to permit one of the accused to represent the other accused.

4. Accordingly, the criminal petition is disposed of.

5. Miscellaneous petitions pending, if any, shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

9th July 2015.

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[\[1\]](#) (2005) 1 SCC 568