

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.8896 of 2015

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ORDER :

This criminal petition is filed by the petitioner/accused under Section 482 Cr.P.C seeking to quash the proceedings in C.C.No.469 of 2014 on the file of the learned II Additional Judicial Magistrate of First Class, Tanuku, West Godavari District, for the offences punishable under Sections 420 and 403 IPC.

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

3. The petitioner is sole accused in the above calendar case, which is an out come of the report of the 1st respondent-*de facto* complainant in Crime No.134 of 2013 of Undrajavaram Police Station. The police after investigation filed the final report and the learned Magistrate has taken cognizance for the offences referred supra.

4. The material in fact falls short for this Court to admit the application to quash the calendar case proceedings.

5. Hence, the criminal petition is disposed of giving liberty to the petitioner/accused 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. 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** and pass appropriate orders. Needless to say further, in the event of filing any application by the petitioner under Section 205 Cr.P.C., the learned Magistrate shall hear and permit the same with necessary conditions including personal appearance as

and when required.

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

Dr. B. SIVA SANKARA RAO, J

30th September 2015.

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