

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.3698 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 PRC No.2 of 2015 on the file of the Court of Judicial First Class Magistrate, Yellareddy, Nizamabad District registered for the offences punishable under Sections 376 (2) (i), 417, 420 IPC and Section 5 (j) (ii) r/w Section 6 of POCSO Act, 2012 and Section (1) (xii), 3 (2) (v) of SC/ ST (POA) Act, 1989.

2) Heard learned counsel for the petitioner/ accused as well as learned public prosecutor representing for 1st respondent—State before admission and before ordering any notice to 2nd respondent/ de facto complainant.

3) A perusal of the report shows at the last but one para of last but one page, about the DNA test conducted vide DNA/441/2014, dated 20.10.2014 evidently not mentioning the result as went against to say that the so called pregnancy worn by victim alleged through accused in her submitting as he promised her to marry. If not Section 376 IPC to attract, it can Section 420 IPC. As the committal proceedings under Section 209 Cr.P.C before the magistrate are virtually post office duty, it is after committal and after taking cognizance under Section 193 Cr.P.C by the Court of Sessions, with or without application, the accused can seek for discharge under Section 227 Cr.P.C for the Court to hear and pass orders from the prosecution material as laid down by the Apex Court in ***State of Orissa vs. Debendra Nath Padhi***. Subject to that, the application is disposed of without prejudice to any other rights of the petitioner, if charges framed to impugn the same.

- 4) Accordingly, the Criminal Petition is disposed of.
- 5) Miscellaneous petitions, if any pending, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Dt.01.06.2015

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HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

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Date: 01.06.2015

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