

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.5880 of 2015

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ORDER :

This criminal petition is filed by the petitioners/A.1 to A.3 under Section 482 Cr.P.C seeking to quash the proceedings in C.C.No.63 of 2014 on the file of the learned Additional Judicial Magistrate of First Class, Srikalahasthi, Chittoor District, for the offence punishable under Section 353 read with 34 IPC.

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 petitioners to move an application under Section 239 Cr.P.C. before the learned Magistrate, if there are no grounds to frame charges or to seek discharge, the learned Magistrate there from to consider only from the prosecution material as laid down by the Apex Court in **State of Orissa v. Debendranath**

Padhi^[1] and pass appropriate orders. Needless to say, in the event of any charges framed, remedy is left open to the petitioners. Needless to say further, if filed any application by the petitioners under Rule 37 of the

Criminal Rules of Practice, the learned Magistrate shall 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

6th July 2015.

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