

HON'BLE SRI JUSTICE ANIS
CRIMINAL PETITION No.9303 of 2012

ORDER:

The petitioner, who is A.19, seeks to quash the charge sheet filed against him in P.R.C.No.93 of 2003 on the file of VI Additional Chief Metropolitan Magistrate, Hyderabad since all the accused (A.1 to A.18) were acquitted for the offences under Sections 147, 148, 307, 324, 353 and 506 read with 149 IPC in PRC.No.68 of 2003, which was numbered as S.C.No.18 of 2004.

Learned counsel for the petitioner contends that the learned II Additional Metropolitan Sessions Judge, Hyderabad, in S.C.No.18 of 2004 dated 16.09.2005, acquitted A.1 to A.18 except A.2; no useful purpose would be served if the petitioner – A.19 is tried in this case; none of the witnesses attributed overtacts against the petitioner – A.19, and had not supported the prosecution case; pendency of P.R.C. is coming in the way of discharging his duties; and, therefore, continuation of proceedings against A.19 is nothing but an abuse of process of law. Learned counsel relied on **Pothula Suresh @ Beri Komti Venkataramaiah S/o.Venkata Subbaiah v. State of Andhra Pradesh**^[1].

On the other hand, Learned Additional Public Prosecutor submits that S.C.No.18 of 2004 ended in acquittal against all the accused except A.2, and the case against the petitioner – A.19 was split up as PRC.No.93 of 2003, and numbered as S.C.No.602 of 2004 and made over to the learned II Additional Metropolitan Sessions Judge, Hyderabad.

I n **Pothula Suresh @ Beri Komti Venkataramaiah S/o.Venkata Subbaiah's** case (1 supra), this Court held as under:

“By going through the contents in the above said decisions, this Court

is of the view that while placing reliance on the evidence recorded by the competent Court, the co-accused were acquitted. Further, the evidence of the witnesses was against the case of the prosecution. If the evidence of the witnesses is against some of the accused, then trial can be proceeded against a person who is facing trial. But, in this case, the witnesses, more particularly the witnesses those who claim to be the eye-witnesses to the occurrence, have turned hostile to the entire case of the prosecution. Thus, in these circumstances, this Court is of the view that the pendency of the case against the petitioner in the present S.C.No.2 of 2011 is abuse of process of law and further proceeding with the trial against the petitioner is a futile exercise.

Accordingly, the criminal petition is allowed and the proceedings initiated against the petitioner/Accused No.1 in S.C.No.2 of 2011 on the file of the Additional Sessions Judge, Hindupur, are hereby quashed. The petitioner/Accused No.1 is set at liberty if he is not required in any other case.”

By order dated 01.08.2014, this Court called for a report from the learned II Additional Metropolitan Sessions Judge, Hyderabad, as to the stage of PRC.No.93 of 2003, and the learned Sessions Judge, by his letter dated 05.08.2014, informed that PRC.No.93 of 2003 (split up case) was committed to the Court of Sessions by his predecessor, and numbered as S.C.No.602 of 2004 and made over to the learned II Additional Metropolitan Sessions Judge, Hyderabad.

A perusal of the findings recorded by the Sessions Court would reveal that none of the injured and eye-witnesses to the incident attributed overtacts against the petitioner herein. Following the judgment of this Court in **Pothula Suresh @ Beri Komti Venkataramaiah S/o.Venkata Subbaiah's** case (1 supra), no useful purpose would be served if the proceedings are allowed to be continued against the petitioner – A.19 in S.C.No.602 of 2004.

Hence, the case in PRC.No.93 of 2003 in S.C.No.602 of 2004 on the file of II Additional Metropolitan Sessions Judge, Hyderabad, is hereby quashed.

The Criminal Petition is, accordingly, allowed.
Miscellaneous petitions pending, if any, shall stand disposed of.

ANIS, J

Date:02.03.2015
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[\[1\]](#) 2011 L.S. (AP) 267