

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.702 of 2013

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ORDER:

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This Criminal Petition is filed by petitioner/A1 under Section 482 Cr.P.C seeking to quash the proceedings in C.C.No.1020 of 2012 on the file of X Additional Chief Metropolitan Magistrate, Secunderabad.

The petitioner is A1 among three accused. The petition filed by A2 and A3 in CrI.P.No.320 of 2013 was partly allowed by quashing the proceedings of the above said C.C. so far as offence under Section 505 I.P.C. is concerned, while retaining Section 506 I.P.C. vide order dated 28.01.2013. By placing reliance and findings in CrI.P.No.320 of 2013, now, the petitioner is seeking to quash the proceedings against him also.

The 2nd respondent is the de-facto complainant in registering crime No.129 of 2012 of P.S., Market, Secunderabad, dated 25.08.2012 for the offence punishable under Sections 505 and 506 I.P.C.

Heard the learned counsel for the petitioner, learned Public Prosecutor for the State and learned counsel for respondent No.2. Perused the material on record.

A perusal of Schedule-I of the Code of Criminal Procedure clearly shows that the offence punishable under Sections 505 and 506 I.P.C. are non-cognizable and police have no right to register a crime, because of bar under Section 155(2) Cr.P.C. without permission of the learned Magistrate concerned to register a crime as if under Section 154 Cr.P.C. and the

police having registered the crime, investigated and filed final report, that was taken cognizance by the learned Magistrate without adverting to the facts. The very cognizance taken by the police in registering crime and filing the final

report vis-à-vis the cognizance taken by the learned Magistrate ignoring Section 155(2) Cr.P.C. r/w Schedule-I of Cr.P.C. is unsustainable merely because the fact of Section 506 I.P.C is a non-cognizable offence not brought to the notice of this Court earlier in CrI.P.No.320 of 2013 in retaining the same in the cognizance of the order of the Magistrate no way estops the petitioner to challenge the same and for the Court to consider.

Having regard to the above, without going into the reasons, as the police have no right to register the crime without permission of the learned Magistrate under Section 155(2) Cr.P.C. and the Magistrate has no right to take cognizance on the police report, invoking Section 190 Cr.P.C., both the offences are liable to be quashed.

Accordingly, this Criminal Petition is allowed by quashing the proceedings in C.C.No.1020 of 2012 on the file of X Additional Chief Metropolitan Magistrate, Secunderabad.

As sequel to it, Miscellaneous Petitions, if any pending, shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

Date: 19-11-2015

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