

**IN THE HIGH COURT OF JUDICATURE AT
HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE
OF ANDHRA PRADESH**

CRIMINAL PETITION No.6469 of 2015

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Between :

Kothapally Joseph S/o.K. Jesudas
and another.

... Petitioners/Accused Nos.1 and 2

AND

The State of Telangana,
Rep. by its Public Prosecutor
and another.

... Respondents

DATE OF JUDGMENT PRONOUNCED: 22.07.2015

SUBMITTED FOR APPROVAL:

THE HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

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| 1. | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2. | Whether the copies of judgment may be marked to Law Reporters/Journals? | Yes/No |
| 3. | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No |

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

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ORDER :

This criminal petition is filed by the petitioners/A.1 and A.2 under Section 482 Cr.P.C seeking to quash the proceedings in C.C.No.1105 of 2014 on the file of the learned VII Metropolitan Magistrate, Cyberabad at Hayathnagar, where the learned Magistrate has taken cognizance of the offences punishable under Sections 420 and 406 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. to quash the proceedings in C.C.No.1105 of 2014 for no part-II C.D. even filed, remedy is left open 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 under Section 240 Cr.P.C. or 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^[1] and pass appropriate orders. Needless to say further, in the event of filing any application by the petitioners under Rule 37 of the Criminal Rules of Practice, the learned Magistrate shall hear and consider with necessary conditions to permit one of the accused to represent the other accused. Further remedy, if any, is left open to the petitioners.

4. Accordingly, the criminal petition is disposed of.

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

Dr. B. SIVA SANKARA RAO, J

22nd July 2015.

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^[1] (2005) 1 SCC 568