

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

**CRIMINAL PETITION No.8803 of 2015**

**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 Crime No.41 of 2014 of Mangalhat Police Station, Hyderabad registered for the offences punishable under Sections 323, 465, 420 I.P.C.

2) Basing on the private complaint filed by the 2<sup>nd</sup> respondent, the learned Magistrate referred the same to the police under Section 156(3) Cr.P.C to register the crime and investigate. Pursuant to which the crime is registered and pending against the petitioners and they filed the present application to quash the proceedings contending that the so called document making use by the accused persons is a forged and fabricated document and used as a genuine as if though forged and the very creation of the document is for the purpose of cheating to make use of. It is the submission in the course of hearing as 2<sup>nd</sup> respondent by the defacto-complainant supra that even the offences under Sections 465, 468 and 471 not mentioned, a reading of Section 465 and 420 I.P.C equally attracts Sections 468 and 471 I.P.C. In fact undisputedly the document in question is using by the accused persons as genuine. It is not only in their suit O.S. No.1736 of 2007 marked as Ex.A-2 but also in the suit filed by the defacto-complainant in O.S. No.1650 of 2007 as Ex.B-1 and when that fact is not in dispute and the defacto-complainant came to know that it is a forged document using as genuine right from 2001, the filing of the private complaint after seven years without any explanation for it is untenable and nothing but abuse of process and not a bonafide prosecution. Needless to say the offence mentioned in the F.I.R from the private complaint relating to the offence under Section 323 I.P.C besides not made out apart from same is non-cognizable, so far as offence under Section 465 and 471 I.P.C even taken as attracted, from what the submission, same is punishable up to two years and the prosecution shall be maintained within three years, otherwise, there is a bar under Section 468 Cr.P.C. and the contention that it is a continuing offence on its face untenable. Even taken the contention of the offence under Section 420 I.P.C is punishable up to seven years and equally

though not mentioned from attracting of Section 468 Cr.P.C as per the contention of the defacto-complainant as observed already, the filing of the complaint after seven years is nothing but abuse of process, leave about any need to go into the merits of the application of the penal provision or not to the facts.

3) Having regard to the above, the proceedings are liable to be quashed. It is made clear that none of the observations will influence the future rights of the defacto-complainant if there is any finding of the Court if forged in seeking to refer the private complaint through Court under Section 195 read with 340 Cr.P.C.

4) In the result, the Criminal Petition is allowed and the proceedings in Crime No.41 of 2014 of Mangalhat Police Station is hereby quashed. The bail bonds of the accused, if any, shall stand cancelled. Consequently the miscellaneous petitions, if any pending, shall stand closed.

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Dr. B. SIVA SANKARA RAO, J

20.11.2015

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