

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO
CRIMINAL PETITION No.5635 of 2015

ORDER :

This Criminal Petition is filed by the Petitioner/ Accused No.2 under Section 482 Cr.P.C seeking to quash the proceedings in C.C No.251 of 2014 of on the file of the Judicial First Class Magistrate, Gajwel, Medka District, where learned Magistrate taken cognizance of the offence punishable under Section 420 IPC against the petitioner/ accused No.2 along with accused No.1.

2) Heard learned counsel for the petitioner/ accused No.2 and learned public prosecutor representing the 1st respondent—state before admission and before ordering any notice to the 2nd respondent—de facto complainant. Perused the material on record.

3) It is the submission of the learned counsel for the petitioner/ accused No.2 that she is working as a teacher at Doulatnabad and the so called taking of Rs.5 lakhs, out of claim of Rs.10 lakhs by pretending himself as Sub-Inspector of Police is only by A-1 and there is no allegation against accused No.2, hence it is a fit case to discharge A2 and quash the cognizance taken by the learned Magistrate against her.

4) A perusal of the charge sheet as well as FIR shows that accused No.1 was introduced to the de facto complainant by accused No.2 with a pretence that he was working as constable and will marry the de facto complainant and therefore he was sending messages to the de facto complainant and with that acquaintance developed through accused No.2 with the de facto complainant, accused No.1 lured and collected an amount of Rs.5,00,000/- with claim of Rs.10,00,000/- for getting job as Sub-Inspector and she

borrowed and paid Rs.5 lakhs and later Accused Nos.1 and 2 failed to respond to her, thereby to take action. There is some privy from the allegations against accused No.2.

5) Accordingly, the Criminal Petition is disposed of, without prejudice to the right of the petitioner, if at all to file an application under Section 239 Cr.P.C, if no grounds for framing charges, the learned Magistrate shall hear and consider only from the Prosecution vide ***State of Orissa vs. Debendra Nath Padhi***^[1]. In the event of any charges framed and no ground to discharge, if aggrieved, remedy is left open to petitioner to file a fresh application to impugn the charges.

6) Miscellaneous petitions, if any pending, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Dt.01.07.2015
Knl

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

-
-
-
-
-
-
-
-

CRIMINAL PETITION No.5635 of 2015

Date:01.07.2015

knl

[\[1\]](#) AIR 2005 SC 359