

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.3817 of 2015

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ORDER :

This Criminal Petition is filed by the Petitioner/ accused No.2 under Section 482 Cr.P.C seeking to quash the proceedings in Crime No.439 of 2011 on the file of XVI Additional Chief Metropolitan Magistrate, Nampally, registered for the offences punishable under Sections 406 and 420 IPC.

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

3) A perusal of the material on record would show that the crime was registered on 20.04.2011 against both the accused. The police after investigation filed final report under Section 173 Cr.P.C substantiating the version by mentioning that the accused are privy and there is cheating and misappropriation on their part of the property belongs to the complainant that was taken on the pretence of lease by the 1st accused and having failed to pay rent and failed to return the property, joined hands with the accused No.2 and sold as scrap. It clearly reveals that the property belongs to third party and not that of accused No.1 for the accused No.2 to purchased as a scrap, which could be revealed had he not privy and enquired bonafide.

4) Needless to say the charge sheet filed in the year 2011 and taken cognizance in the year 2011 as CC No.439 of 2011. There is nothing to say any fault on the part of the prosecution in completion of trial but for saying the 1st accused in abscondance. If that is the case,

the 2nd accused ought to have asked the Court to split up the case against accused No.1 and proceed against them. He did not even do so. Thus, there is no material on that ground to appreciate by the Court.

5) Having regard to the above, there are no grounds to admit the application filed under Section 482 Cr.P.C to quash the charge sheet taken cognizance in the year 2011 (four years ago). Needless to say if the stage of Section 240 Cr.P.C not crossed (from what he says) he can avail the opportunity of hearing before framing of charges by the trial Court, to submit if no material to frame charge to decide on own merits u/s 239 r/w 240 Cr.P.C.

6) Accordingly, the Criminal Petition is disposed of.

7) As a sequel, miscellaneous petitions, if any filed in this Criminal Petition, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:03.06.2015

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