

THE HONOURABLE Dr.JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.14914 of 2014

ORDER:

This petition is filed under Section 482 of the Code of Criminal Procedure (for short, 'the CrPC') by the Petitioner/accused in PRC No.22 of 2014 on the file of the learned III Additional Judicial Magistrate of First Class, Kothagudem, seeking to quash the proceedings in the said case.

2. Heard the learned counsel for the petitioner so also the learned Public Prosecutor representing State-1st respondent before notice and before ordering notice to the 2nd respondent/de facto-complainant and perused the material on record including pending investigation stay of arrest by the Court in CrI.P.No.6700 of 2014 in favour of the petitioner vide order dated 24.06.2014. It is needless to say that stage crossed as police filed final report showing the accused in abscond and it is taken cognizance by the learned Magistrate under Section 190 Cr.P.C. taken the proceedings to commit under Section 209 of Cr.P.C. by allotting P.R.C.No.22 of 2014. Practically, at this stage, once the learned Magistrate after taking cognizance under Section 190 of Cr.P.C. found that the case is triable by the Court of Sessions, the committal is almost a post office duty but for within the limited sphere.

3. Having regard to the above and from the material shows falls short for this Court to admit the application to quash the proceedings in P.R.C.No.22 of 2014 but for the factual matrix entitles to the concession of bail, liberty is given to the petitioner to approach the learned Special Judge, by surrender and move an application for regular bail and in such an event, the learned Special Judge, shall grant bail with necessary conditions on the same day. Remedy is left open to the petitioner after committal of the case to the Court of Sessions and taken cognizance by the learned Sessions Judge under Section 193 of Cr.P.C. during the course of hearing of charges under Section 226 to 228 of Cr.P.C. to file an application under Section 227 of Cr.P.C.to decide on own merits from the

prosecution material as envisaged by the Apex Court in **State of Orissa**

Vs. Debendra Nath Pathi^[1]

4. With the above observation, the Criminal Petition is disposed of. Consequently, miscellaneous petitions, if any, pending in this Criminal Petition shall stand closed.

Date: 23.06.2015
Vvr

Dr. B.SIVA SANKARA RAO J,

^[1] (2003) 2 SCC 711]