

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.3814 OF 2015

ORDER:

This is a Criminal Petition filed under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Code') by the petitioner/A1 requesting to quash the proceedings against her in C.C.No.1159 of 2014 on the file of the Court of the learned II Additional Judicial Magistrate of First Class, Nellore.

2. Heard the learned counsel for petitioner/A1, and also the first respondent herein-State represented by the Public Prosecutor concerned, before admission and before ordering any notice to the defacto complainant/second respondent. Perused the material on record.

3. In the criminal case taken cognizance the offence supra based on the final report for the offences punishable under Sections 403, 404, 406, 417, 418, 419, 420 and 506 of the Indian Penal Code (for short, 'the I.P.C') against the petitioner herein among other accused; the contention that the crime registered and investigated by the police who filed ultimately the charge sheet is outcome of a civil dispute and a counterblast to O.S. No.270 of 2012. Same is untenable for no material filed to say purely a civil dispute with no element of crime. The other contention is that there is no event of occurrence of any incident as alleged to attract the allegations of Sections 406 and 420 of the I.P.C. is also untenable, including from the ground No.9 of the grounds alleged, when the charge sheet contains the same, more particularly at page No.1 paragraph Nos.4 and 5.

4. Having regard to the above, as the material filed falls short to admit the application under Section 482 of the Code, the Criminal Petition is disposed of giving liberty to the petitioner to move an application for discharge under Section 239 of the Code for the trial Court to consider on its own merits to decide uninfluenced by the above observations and only from the prosecution

material within the scope of law laid down by the Apex Court in **State of Orissa v. Debendra Nath Pathi**. It is needless to say that if the accused persons file any application, under Rule 37 of the Criminal Rules of Practice, to permit one to represent the other accused, the learned Magistrate after hearing, shall consider the same with necessary conditions, including any condition for personal appearance as and when required.

5. The Criminal Petition is disposed of accordingly.

Miscellaneous petitions pending, if any, in the Criminal Petition shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 03.06.2015

MVA

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