

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Crl.P.No.7174 of 2014

ORDER :

This petition is filed under Section 482 of the Code of Criminal Procedure (for short, 'the CrPC') by the Petitioner/Accused to quash the proceedings in C.C.No.413 of 2013 on the file of the III Special Magistrate, Erramanzil, Hyderabad, registered for the offence punishable under Section 338 IPC on the report of the 2nd respondent-defacto-complainant.

2. Heard the learned counsel for the petitioner/Accused so also the learned Public Prosecutor representing State-1st respondent and notice to the address of the 2nd respondent-defacto-complainant mentioned in the police final report even taken several times returned unserved and substitute service is also published in Saakshi Daily Newspaper of Hyderabad District Edition for appearance fixed today before this Court but failed to appear, hence taken as heard and perused the material on record.

3. The petitioner is the accused, a retired officer of Central Government service and resident of Mumbai. The final report of the police shows as if the accused voluntarily surrendered before the police on 15.04.2008 and was released by police whereas the bail bonds show it was executed on 11.12.2007 itself. The occurrence was on the fateful day dated 10.12.2007 undisputedly, on the tank bund of the car said to have been dashed by the Motor cycle. It is in fact, the version of the petitioner that while he was proceeding in his car, the defacto-complainant along with other came by double riding on the motor cycle dashed by another motor cycle or somehow, they fell down and the petitioner, out of his mercy being retired public servant, he lifted those persons fallen on the road into his car to hospital and admitted but he is falsely roped by obtaining some statements as if of the defacto-

complainant by police for statistical purpose.

4. Though the above contention per se unacceptable more particularly from the presumption in favour of all official acts to say that the police performed their duty honestly so far as the so called arrest and execution of bonds pointed supra shown there is a strong force in saying false implication leave it as it is, the crime is of the year 2007 and the same is pending even after filing of final report for more than seven years and police could not secure presence of the defacto-complainant to adduce evidence and the defacto complainant is not available as per the chargesheet address and even to the substitute service, he did not choose to appear shows his whereabouts are not even known to the police and thereby continuation of proceedings of a person aged about 70 years even after more than 7 years that too, to face the ordeal for coming from Mumbai to trial at Hyderabad is nothing but abuse of process.

5. Having regard to the above, it is just and proper to quash the proceedings in the above crime in order to meet the ends of justice.

6. Accordingly, the Criminal Petition is allowed by quashing the proceedings in C.C.No.413 of 2013 on the file of the III Special Magistrate, Erramanzil, Hyderabad. Bail bonds of the petitioner, if any, shall stand cancelled. Consequently, miscellaneous applications, if any, pending in this Petition shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 23.09.2015

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