

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.13642 of 2014

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ORDER :

This criminal petition is filed by the petitioner/A.1 under Section 482 Cr.P.C seeking to quash the proceedings in C.C.No.812 of 2011 on the file of the learned III Metropolitan Magistrate, Vijaywada, for the offences punishable under Section 420 IPC and Section 7(c) of Essential Commodities Act.

2. Heard the learned counsel for the petitioner as well as the 1st respondent-State represented by the Public Prosecutor before admission and before ordering any notice to the 2nd respondent and perused the material on record.

3. Undisputedly in this case no charge so far framed under Section 240 Cr.P.C. When such is the case, remedy is left open to the petitioner herein among other accused also, if at all to file an application under Section 239 Cr.P.C. if there are no grounds to frame charges in seeking for discharge that too in this case in seeking quashment of cognizance taken for the offences by the learned Magistrate supra from the final report, no Part-II C.D. even filed.

4. Accordingly, the criminal petition is disposed of giving liberty to the petitioner to move an application for discharge under Section 239 Cr.P.C. before the learned

Magistrate, if there are no grounds to frame charges under Section 240 Cr.P.C., the learned Magistrate there from to consider only from the prosecution material on own merits as laid down by the Apex Court in **State of Orissa v.**

Debendranath Padhi^[1] and pass appropriate orders.

Needless to say, in the event of framing of any charge, remedy is left open to the accused apart from that if any application filed either under Section 205 Cr.P.C. for this petitioner/A.1 or under Rule 37 of the Criminal Rules of Practice, for all the accused one to represent, the learned Magistrate shall hear and consider the same with necessary conditions including personal appearance as and when required.

5. Miscellaneous petitions pending, if any, shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

17th July 2015.

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^[1] (2005) 1 SCC 568