

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.3940 of 2015

ORDER :

The Criminal Petition is filed by the petitioner/ accused No.1 under Section 482 Cr.P.C to quash the proceedings in C.C. No.29 of 2009 on the file of Judicial First Class Magistrate, Siddipet, which is outcome of report of 2nd respondent—de facto complainant in Crime No.27 of 2009 of P.S Siddipet I Town police Station, registered for the offences punishable under Sections 406 and 420 IPC. The police after investigation in Crime No.27 of 2009 filed the final report.

2) Aggrieved by the same, the 2nd respondent/ de facto complainant filed the protest application that was taken cognizance by the learned Magistrate and the docket order dated 22.06.2009 reads as under:

“Heard. Perused the record. The evidence of LW.1 coupled with documents shows there was a joint account standing in the name of complainant and the accused No.2 herein. Further it shows the accused No.2 herein withdrawn the amount from the Bank without obtaining signature of complainant on the cheque for six times on that the complainant issued a notice to the Bank authorities and informed them don't sanction the amount on the cheques presented by accused No.2 as he is not obtaining the signature of complainant intentionally even though the accused No.1 permitted the accused no.2 to withdraw the amount on the cheque singed by the accused No.2 alone, I am of the view that the facts of the case shows there is prima facie made out against the accused it should be tried by this Court, hence satisfied with a view of the complainant and taken on file against the accused for the offence punishable under Sections 406 and 420 IPC. Issue summons to the accused Nos.1 and 2. Call on 21.07.2009.”

3) Therefrom cognizance is taken for the offences punishable under Sections 406 and 420 IPC against both accused i.e., Accused Nos.1 and 2. In

fact a perusal of the said cognizance order no way shows the learned Magistrate applied his mind to the earlier crime report vis-à-vis the police investigation done and filed final report. It is a protest application in continuation to the earlier final report filed in raising the protect application against the referred report supra and thus that is also part of the record to consider, it at all to take cognizance and not by totally ignoring the earlier police referred report. It is needless to say, so far as the accused No.2 is concerned, if at all the perpetrator of the crime. The position of accused No.1 herein is only Manager of the Bank at best a dereliction of duty in saying despite resolution of Red Cross Society, there is negligence if all in allowing withdrawing of the amount by accused No.2 from the joint account of complainant and accused No.2. The quash petition against accused No.2 is allowed by Order of this Court passed in CrI.P. No.7430 of 2009 dated 25.03.2011, holding the joint bank account of the parties to operate both parties are entitled being equal owners and further there is no complaint by Red Cross, apart from the Red Cross has given the worse satisfaction certificate and there is no any cheating or breach of trust to take cognizance by the learned Magistrate on the protest application against accused.

4) Having regard to the above, the Criminal Petition is liable to be quashed as accused No.1 is no more in any worst situation to accused No.2 for what is discussed alone.

5) Accordingly, the Criminal Petition is allowed and all the proceedings relating to C.C. No.29 of 2009 on the file of the Judicial First Class Magistrate, at Siddipet, are hereby quashed. The bail bonds of the petitioner/ accused No.1, if any, stands cancelled.

Dr. B. SIVA SANKARA RAO, J

07.11.2015

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Date:07.11.2015

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