

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.7614 of 2015

ORDER :

The Criminal Petition is filed by the petitioners under Section 482 Cr.P.C to quash the proceedings in C.C. No.280 of 2013 on the file of Judicial Magistrate of the First Class, Gajwel, Medak District, where the learned Magistrate taken cognizance for the offences punishable under Sections 420, 419, 468, 471, 120-B read with 34 I.P.C. against four accused. Needless to say among them, A-3 died and A-1, A-2 and A-4 surrendered and enlarged on bail during investigation. The said case is outcome of the report of the 2nd respondent/defacto-complainant in Crime No.29 of 2013 dated 01.03.2013 for the offences supra and the police after investigation, filed the final report.

2) Heard the learned counsel for the petitioners and the 1st respondent-State represented by the Public Prosecutor before admission, before ordering notice to the 2nd respondent/defacto-complainant and perused the material on record.

3) It is the contention of the learned counsel for the petitioner/A-1 that the civil suit in O.S. No.110 of 2012 undisputedly pending for cancellation of the so called sale deed. The sale deeds were of the year 1997 September. It is the contention of the learned counsel for the petitioner that several offences are barred by limitation of three years. Undisputedly, no Part-II C.D. filed, but for relying on charge sheet contents, that is not the end all for the Court to consider. Thereby, the material falls short for this Court to admit the application to quash the calendar case proceedings supra, but for dispose of the same giving liberty to file an application under Section 239 Cr.P.C before the lower Court if there are no grounds to frame charge under Section 240 Cr.P.C to decide on own merits as per the expression of the Apex Court in ***State of Orissa V. Debendranath Padhi***. Needless to say the petitioners are at liberty to file an application

under Rule 37 of Criminal Rules of Practice to represent one for other accused and in such an event, the learned Magistrate shall hear and consider the same by permitting with necessary conditions of personal appearance as and when required.

4) With the above observations, the criminal petition is disposed of. Consequently, the miscellaneous petitions, if any pending, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

10.09.2015

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