

THE HON'BLE SRI JUSTICE RAJA ELANGO

Criminal Petition No.2136 of 2016

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C. seeking to quash proceedings initiated against the petitioners in C.C.No.1017 of 2015 pending on the file of XV Metropolitan Magistrate, Cyberabad at Medchal, arising out of Crime No.211 of 2012 of Medchal Police Station registered for the offences punishable under Sections 447, 427, 506 read with Section 34 IPC, whereby the petitioners arrayed as A-1 to A-3.

Heard and perused the material on record.

It appears that the present crime was registered by the police on a reference being made by the concerned Court invoking Section 156 (3) Cr.P.C. and the police after completion of investigation filed the charge sheet.

Learned counsel for the petitioners mainly contends that since the offence under Section 427 IPC is punishable with two years, the cognizance should have been taken by the Court within a period of three years as contemplated under Section 468 Cr.P.C., but the cognizance was taken after lapse of three years and to that effect, he filed certified copy of the charge sheet showing taking of cognizance of the case, and hence, the proceedings are liable to be quashed.

From a reading of the material, it reveals that the offence took place on 19-06-2012 at 18.00 hrs, whereas the charge sheet was filed in the month of June, 2015, admittedly, after lapse of three years from the date of offence, on which the Court has taken cognizance of the case only on 01-12-2015. The copy of the charge sheet does not disclose on which date the cognizance was

taken.

Considering the facts and circumstances of the case and in view of the submissions made by the learned counsel, this Court is of the view that what all contentions raised herein have to be raised properly before the trial Court, which can be considered by the trial Court, since the trial Court is having with original record regarding factum of filing of charge sheet and taking of cognizance. At this stage, this Court is not inclined to quash the proceedings against the petitioners.

In view of the same, the petitioners are directed to file appropriate application before the concerned Court asserting the ground of delay in taking cognizance of the case and on such application being made, if the Court finds that the cognizance was taken after lapse of statutory period, it is for the concerned Court to discharge the petitioners/Accused. The NBWs issued against the petitioners/A-1 to A-3 are hereby recalled.

With the above observation, the criminal petition is disposed of. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

RAJA ELANGO, J

Date: 22-02-2016