

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Crl.P.No.9028 of 2016

ORDER:

This Criminal Petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C') is filed to quash the proceedings in C.C.No.63 of 2016 pending on the file of II Additional Judicial First Class Magistrate, Rajahmundry, on the ground that the Court only took cognizance of the offences punishable under Sections 341, 323, 354 r/w 34 IPC though there is an allegation made in the final report to attract the offence punishable under Section 3(1) (r) , (3(2) (V) of SCs and STs (POA) Act, 1989.

The main endeavour of the learned counsel for the petitioners is that when a charge sheet is filed both IPC and SCs and STs (POA) Act, the charge sheet should be filed by the investigating agency before designated Court as defined in the Act. He further contended that failure to take cognizance of the offences punishable under Sections 3 (1) (r) & 3 (2) (v) of SCs and STs (POA) Act, 1989, is an illegality committed by the learned Magistrate.

Learned counsel for the respondent contended that a revision lies against the said Order, but a petition under Section 482 Cr.P.C. cannot be maintained. Apart from that, the allegations made in the complaint would not attract the offences punishable under SCs and STs (POA) Act, as amended by Act No.1 of 2016.

As per the material available on record, the Deputy Superintendent of Police, Central Zone, Rajahmundry, filed charge sheet before II Additional Judicial First Class Magistrate at

Rajahmundry, against the petitioners/A.1 to A.5 for the offences punishable under Sections 341, 354 (A) (2) r/w 34 IPC and Sec. 3 (1) (r) and 3 (2) (V) SCs and STs (POA) amendments Ordinance Act 2016.

According to Section 14 of the Amended Act, the State Government has to notify the Courts to try the offences punishable under the particular Act and establish the Court for trial of those cases. Second Proviso of Section 14 (1) of the Amended Act says the Courts so established or specified shall have power to directly take cognizance of the offences under the Act. Therefore, filing of charge sheet before Magistrate and following the procedure under Sections 207 to 209 of Cr.P.C. does not arise, as per the provisions of Amended Act.

When charge sheet is filed for the offences punishable both under IPC and SCs & STs (PA) Act, the Magistrate could not have taken cognizance only for IPC offences and would have returned the charge sheet for presentation of the same before designate Court under the Act. But, the learned Magistrate took cognizance only for IPC offences while refusing to take cognizance of the offences under Sections SCs and STs (POA) Act. The Order of the learned Magistrate is illegal and by exercising power under Section 482 Cr.P.C. i.e., supervisory powers, of the High Court over the Judicial Magistrate Courts, the High Court can set right such errors.

Therefore, the Order passed by Judicial First Class Magistrate taking cognizance of offences punishable under the provisions of IPC, while declining to take cognizance for the offences punishable u/s SCs and STs (POA) Act, is set aside while directing the Magistrate to

return the charge sheet for presentation of the same before appropriate Court/designated Court having jurisdiction under Section 14 of SCs and STs (POA) Act and the parties are at liberty to raise any contention before Designated Court at the time of framing charges and on raising such contentions, the trial Court is under obligation to pass appropriate Orders.

With the above direction, this Criminal Petition is dismissed.

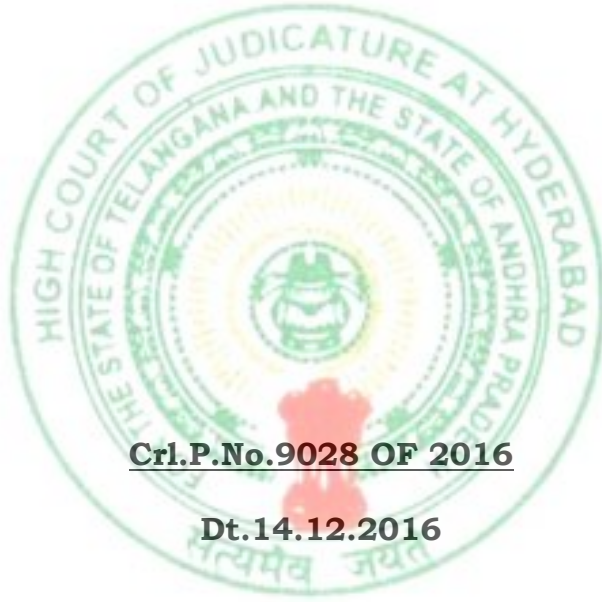
Miscellaneous Petitions, if any, pending in this Criminal Petition, shall stand closed.

December 14, 2016.
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M. SATYANARAYANA MURTHY, J



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Dt.14.12.2016

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