

HON'BLE Dr.JUSTICE B.SIVA SANKARA RAO

Criminal Petition No.17192 OF 2016

ORDER

Heard the petitioner-party in person and Sri V.Mohan Srinivas, the learned counsel for the respondents 1 to 4 and also the learned Public Prosecutor representing respondents 9 to 12. The notices sent to respondents 5,7 and 8 were returned unserved as no such addressees for R.6 is served and perused the grounds urged in the petition and the other material on record.

2. Undisputedly, the petitioner filed a private complaint case vide C.C. No.180 of 2016 (C.F.No.7821 of 2015) and the learned IV Addl.Chief Metropolitan Magistrate-cum-Addl.Mahila Magistrate, Vijayawada by order, dt. 04.03.2016 after recording sworn statements, taken cognizance from the prima facie accusation against the A.9 to A.11 for the offences punishable u/sec.191,193, 195, 506, 499, 500 and 120-B IPC holding no any case made out against the A.8, however, so far as A.1 to A.7 concerned offence made out u/sec.500IPC. Aggrieved by the same, the petitioner as party in person filed CrI.R.C.No.29 of 2016 and the learned XIII Addl.District Judge, (FTC) Vijayawada by order dated 10.11.2016 allowed the revision by setting aside the order of the learned Magistrate in part with a direction to take cognizance against the A.8 to A.11 for the offence punishable u/sec.500IPC also. The said order is impugned by the A.1 to A.4 in CrI.P.No.5798 of 2016 before the another bench of this Court and the Court allowed the same on 12.02.2016 setting aside the entire cognizance order of the learned Magistrate and modified the order of the learned Sessions Judge, so far as they are concerned and in said order not

only allowed the Criminal Petition but also quashed the proceedings of C.C.No.180 of 2016 pending on the file of the IV ACMM Vijayawada in toto.

3. It is in that factual scenario, another petition filed by the A.10 in CrI.P.No.17399 of 2016 which is stated reserved for orders. In fact, the order of the learned Single Judge is suffice to serve the purpose to quash entire criminal case proceedings. The petitioner as party in person having engaged an advocate before the Apex Court moved to the Apex Court by SLP(CrI) No.3755 of 2017 and the Apex Court before admission dismissed the same on 09.05.2017 saying there is no any legal or valid ground for interference, thereby dismissed the SLP.

4. Now the present petition is impugning the non-taking cognizance under other sections like 109,193,195,499,506 and 120-B IPC against the accused persons 1 to 11 supra saying earlier the learned Magistrate has taken cognizance for the limited purpose and the learned Sessions Judge, allowed the revision only in part instead of adding these sections also. Nothing more is required to discuss on merits in view of the original cognizance proceedings of the learned Magistrate modified by the learned Sessions Judge were set aside in toto when impugned by the A.1 to A.4 before another bench of this Court and the said order is confirmed by the Apex Court in SLP, there is nothing to consider for adding any of these sections. The petitioner was no doubt accused in the case filed by Bajaj Finance vide C.C.No.706 of 2010 and in the acquittal judgment dated 30.06.2015 for the offence u/ sec.420 IPC, there is no finding of any perjury or creating any false record for the purpose of giving false evidence within the meaning of Section 193

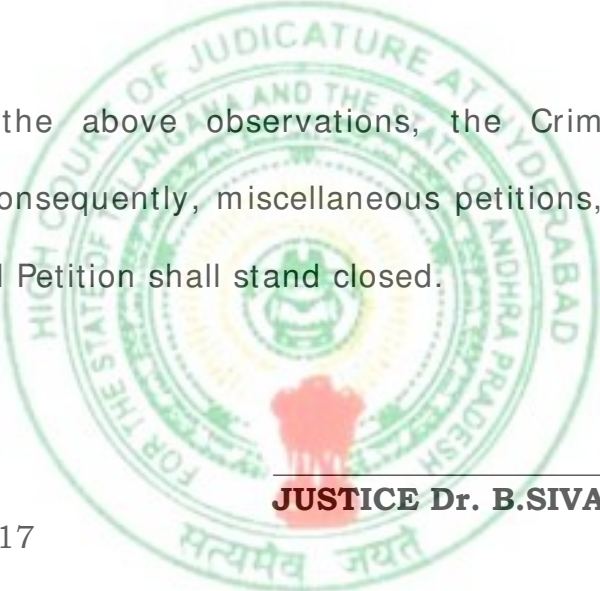
and 195 IPC. In fact, giving of evidence was in that Court during trial and that Court did not choose to give any finding on perjury on merits. Once any finding given effecting administration of justice in the court proceedings and if at all that Court chosen to do so, it can u/sec.195 r/w 340 CrPC cause file a complaint if not proceeded summarily and when not chosen to do so by that Court the petitioner cannot invoke jurisdiction of this Court u/sec.482CrPC much less to include penal provisions u/ Sec.193 and 195 IPC in the original cognizance order of the learned Magistrate modified by the learned Sessions Judge, that too when the very orders to take cognizance were in toto set aside by the another Bench of this Court in the quash petition referred supra. Apart from it, even coming to the other Section mentioned of 499IPC concerned, it is a definition of defamation and for that the penal section is Section 500 IPC and the orders of the learned Magistrate and the learned Sessions Judge show taking cognizance from the modified order for the offence u/sec.500IPC, but for to say another bench of this Court in that quash petition allowed the same also by setting aside the very cognizance orders supra.

5. Coming to Section 120B IPC, when there are no substantive offences, the question of adding section 120-B does not arise, leave about to add any offence of criminal intimidation u/ sec.506 IPC, for there are no any instances of creating panic in the mind of the petitioner at any particular date, place and occurrence of time.

6. What the party in person at this stage states is that he already filed a review application before the Apex Court under

Article 136 of the Constitution of India to review the order of dismissal of the SLP referred supra and it is pending. Once such is the case, it is made clear that in the event of allowing his review petition by the Apex Court by restoring the cognizance order of the learned Magistrate modified by the learned Sessions Judge, by setting aside the quash petition order of another Bench of this Court, the petitioner can urge for such adding of any other penal sections in the course of hearing on charges during trial under Section 244CrPC by filing any petition invoking section 246CrPC to consider on own merits if not discharged under Section 245(1) CrPC.

7. With the above observations, the Criminal Petition is disposed of. Consequently, miscellaneous petitions, if any, pending in this Criminal Petition shall stand closed.



JUSTICE Dr. B.SIVA SANKARA RAO

Date: 12.10.2017
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