

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.5627 of 2017

ORDER:

Heard learned counsel for the petitioner/accused of crime No.53 of 2017 of CCS, Hyderabad, registered for the offences punishable under Sections 420, 406, 464, 465, 468, 471, 448 & 506 IPC and also learned Public Prosecutor representing the 2nd respondent-State and learned senior counsel Sri Krishna Murthy representing Sri K.Rama Mohan, learned counsel for the 1st respondent-defacto complainant and perused the grounds urged in the quash petition and the referred report of the learned Magistrate from the private complaint that is registered as crime supra and also the stay vacate petition saying what is the observation in granting stay of non-compliance with the mandatory requirements as per the Apex Court guidelines in **Priyanka Srivastav Vs. State of U.P.**¹ and **Ramdev Food Products Private Limited Vs. State of Gujarat**² is not correct from the affidavit filed before the learned Magistrate and certified copy of the affidavit filed before the learned Magistrate is also filed.

Perused the material on record. No doubt from the referral order or private complaint contents, there is no reference or indication of filing of the affidavit, which is one of the mandatory requirements from the above expressions even for referring of private complaint by Magistrate under Section 156 (3) Cr.P.C. Having regard to the above, the stay order on that ground cannot be continued. However, that is not the only contention in the

¹ 2015 (6) SCC 287

² (2015) 6 SCC 439

quash petition though it is premature to make any expression by going into merits because the crime requires investigation.

Accordingly and in the result, the Criminal Petition is disposed of by left open all available defences of petitioner/accused and by vacating the interim stay order, however by directing by this order the police, not to arrest the petitioner/accused pending investigation. Police are entitled to secure his presence if necessary for the purpose of investigation.

Consequently, miscellaneous petitions, if any shall stand closed.

Date: 05.10.2017
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JUSTICE Dr. B.SIVA SANKARA RAO

