

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.7370 of 2017

ORDER :

Heard learned counsel for the petitioner/ A2 of C.C.No.381 of 2009 on the file of the III Metropolitan Magistrate, Visakhapatnam, which is an outcome of the protest petition that was outcome of a private complaint referred to police for investigation on 05.01.2009 and learned Magistrate pursuant to the docket order dated 27.03.2009 referred to police for investigation, where there is mention in action of police from the report given referred as document dated 05.01.2009, pursuant to protest petition taken on file as the offences triable by the Magistrate other than Section 307 I.P.C. not made out.

2. The said cognizance order of the learned Magistrate is also not before the Court. It is, in fact, from perusal of the record, a private warrant procedure to be adopted by the learned Magistrate as contemplated by Sections 244 to 250 Cr.P.C. including recording of evidence of the prosecution in the pre-charge enquiry contemplated by Sections 244 and 245 Cr.P.C.

3. A perusal of the material shows PW.1's evidence already recorded, there is nothing to show even any charges framed or not.

4. Having regard to the above, there is nothing to keep the matter pending, but for, giving liberty to seek for discharge if no

grounds to charge, if charges not framed from the pre-charge enquiry contemplated by Sections 244 and 245 Cr.P.C. Needless to say, even if any charges framed and the case is under trial, petitioner is at liberty also by virtue of this order to file an application under Section 216 Cr.P.C. if no grounds to charge him, for the Court within its power to consider.

5. Accordingly, the Criminal Petition is disposed of, with a direction to dispose of C.C.No.381 of 2009 on the file of the III Metropolitan Magistrate, Visakhapatnam, within a period of five months from the date of receipt of copy of this order.

6. Miscellaneous petitions, pending if any, shall stand closed.

Date:31-08-2017
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Dr. B. SIVA SANKARA RAO, J

