

THE HON'BLE DR. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.9481 OF 2017

ORDER:

Heard learned counsel for the petitioner/A5 of Crime No.93 of 2013 of Doulatnabad Police Station, Mahabubnagar District and also the learned public prosecutor, representing the 1st respondent – State, before ordering notice to the 2nd respondent – defacto complainant.

2. The above said crime registered originally against six persons, where the name of the petitioner Mr.M.Kalappa, was not there. The police in the course of investigation, from the original private complaint referred to the police by the learned Magistrate under Section 156(3) Cr.P.C., dated 15.10.2013, in registering the crime on 19.10.2013, for the offences punishable under Sections 120(B), 193, 197, 198, 417, 420, 425, 447, 465, 468, 506 r/w 34 IPC, on 16.05.2016, filed an altered memo before the Court in showing the petitioner also as one of the accused whose complexity is there in cause serving the notices on the persons instead of serving on the persons alive by cause endorsing as if died as part of the alleged privy. Thus, but for to say, all the offences are punishable up to seven years and not above seven years, from which the petitioner is entitled to the protection of Section 41A Cr.P.C. and the guidelines laid down by the

Hon'ble Apex Court in ***Arnesh Kumar Vs. State of Bihar***¹, there is nothing to interdict the investigation from the altered memo including so far as the petitioner concerned.

3. Accordingly and with the above direction, this criminal petition is disposed of. Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence.

DR.B.SIVA SANKARA RAO, J

11.10.2017
SS



¹ 2014 (5) SCC 324