

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

**CRIMINAL PETITION No.7129 of 2017**

**ORDER:**

Heard learned counsel for petitioner-accused No.3 in PRC No.13 of 2017 on the file of Judicial First Class Magistrate, Banaganapalli, which is the outcome of Crime No.26 of 2017 registered on 21.02.2017 based on the statement of Smt.Annadasu Saraswathi and learned public prosecutor representing the 1st respondent—State and perused the material on record.

2) On 21.02.2017 at 17.00 hours at Government Hospital, Banaganapalli for the occurrence taken place on that day morning, the police registered the crime for the offence punishable under Section 324 I.P.C against one Perusomula Thimmakka, W/o.Nagaraju. The said informant breathed the last in the way while shifting to Head Quarters hospital, Karimnagar from the Government Hospital, Banaganapalli on medical advice. The altered FIR was registered by recording the statement of her son, who is 2<sup>nd</sup> respondent herein, from Section 324 IPC to 302 r/w 34 IPC. From his statement disclosing privy of accused Nos.2 and 3 of whom the petitioner is accused No.3. The said altered memo dated 25.02.2017, was in the form of report given by LW.2 and registered with the same FIR by alteration. Thus, it is clarified for all purposes or from the subsequent investigation in filing the charge sheet in the form of final report by mentioning the one crime that is the original crime No.26 of 2017 as one FIR and the subsequent Crime No.27 of 2017 is only altered one and not an independent FIR.

3) The learned committal Magistrate has taken cognizance under Section 190 Cr.P.C for the offence punishable under Section 302 r/w 34 IPC against three accused including accused No.3, the petitioner herein, and allotted PRC No.13 of 2017 which is ripe for committal. The present impugment is that the second FIR is bad. Leave about, it is not a maximatic rule and any such defence is available to raise during trial or hearing before charges before the Court of Sessions on committal. From what is referred supra, it is only an altered one and not an independent FIR as no independent FIR number is allotted and thereby, subject to the observation, the petition is liable to be dismissed but for nothing to admit and interdict the committal proceedings.

4) Accordingly, the Criminal Petition is disposed of.

5) Pending miscellaneous petitions, if any, shall stand closed.

**JUSTICE Dr. B.SIVA SANKARA RAO**

Date: 18.08.2017  
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