

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No. 13211 OF 2010

ORDER :

Heard the learned counsel for the petitioner/Accused in C.C.No.165 of 2010 on the file of the Court of the Special Judl.Magistrate of First Class(Mobile Court),Kurnool, and also the learned Public Prosecutor for the respondent-State, and perused the material on record.

Learned Magistrate taken cognizance in the above Calander Case of the offences punishable u/secs.171(E) IPC, and u/sec.123(1)(A)(b) of Representation of the People Act, 1951 which is outcome of Cr.No.145 of 2009 of Kurnool II Town Police Station registered on the report of the Inspector of Police II Town Police Station, Kurnool. Both the offences are non-cognizable and there is a bar u/sec.155 CrPC, for registering a crime as if a cognizable offence and to investigate and file final report, thereupon by the learned Magistrate to take cognizance. No doubt the petitioner earlier filed CrI.M.P.No.7400 of 2010 before the learned Magistrate seeking discharge under Section 258CrPC and the same was dismissed on 15.09.2010 holding that such a bar is to be exercised very sparingly and at the time of framing of charge it cannot be decided, and against which the accused maintained revision (CrI.R.P.No.51 of 2010) and went unsuccessful. However, even from those, there is nothing to say any permission of the learned Magistrate to take cognizance is

obtained. However, those orders are no way a bar for deciding the petition.

Having regard to the above, the very registration of First Information Report, taking cognizance from the final report is a bar, the proceedings are quashed the accused is acquitted, bail bonds shall stand cancelled.

Accordingly and in the result, the Criminal Petition is allowed by quashing the proceedings against the petitioner/accused in C.C.No.165 of 2010 on the file of the learned Special Judl.Magistrate of First Class(Mobile Court) Kurnool. The petitioner/accused is acquitted and his bail bonds shall stand cancelled.

Date:17.08.2017
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Dr.JUSTICE B.SIVA SANKARA RAO

