

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.8423 OF 2017

ORDER:

This petition is filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the proceedings in C.C.No.840 of 2015 on the file of I Additional Chief Metropolitan Magistrate, Visakhapatnam, for the offences punishable under Sections 465, 467, 468, 471 & 420 IPC, mainly on the ground that a report was lodged with the police which is under investigation. Further, a private complaint was also filed before the Magistrate by the second respondent/Sub-Registrar, Dwarakanagar, for the same offences, allegedly occurred on the same day for the same act. The Court below took cognizance of the offences and registered the same as C.C.No.840 of 2015.

Investigation in Crime No.174 of 2015 is still pending and no final report is filed under Section 173 Cr.P.C by the Investigating Agency. When, two cases are registered, one based on police report and the other based on private complaint, the Court below trying the offences shall follow the procedure under Section 210(2) Cr.P.C, which reads as thus:

"210. Procedure to be followed when there is a complaint case and police investigation in respect of the same offence.-

(2) If a report is made by the investigating police officer under section 173 and on such report cognizance of any offence is taken by the Magistrate against any person who is an accused in the complaint case, the Magistrate shall

inquire into or try together the complaint case and the case arising out of the police report as if both the cases were instituted on a police report.”

In view of the procedure contemplated under Section 210(2) Cr.P.C, the Magistrate concerned is directed to try both the matters in the event of filing final report by the Investigating Agency against this petitioner for the offences punishable under Sections 465, 467, 468, 471 & 420 IPC.

With the above direction, without touching the merits of the case, this criminal petition is disposed of.

Consequently, miscellaneous petitions, if any, pending in this Petition shall stand closed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Dated:29.11.2017

Note

Copy by 04.12.2017

b/o

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