

HON' BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.7272 of 2017

ORDER:

The petitioner is the sole accused of Crime No.126 of 2017 of Kavali Police Station of Kavali, S.P.S.R.Nellore District, which is outcome of the report of the 2nd respondent, no other than the so called brother of him, dated 01.07.2017, registered for the offences punishable under Sections 509, 506 and 500 I.P.C. and 67A of the Information Technology Act, 2000.

Heard learned counsel for the petitioner/accused and learned Public Prosecutor representing the State before ordering notice to 2nd respondent and perused the grounds urged in the quash petition and the contents of the F.I.R.

No doubt, there is a force in the contention of the learned counsel for the petitioner that the police have no right to register a crime for the offence punishable under Section 500 I.P.C., by virtue of the bar under Section 199 Cr.P.C. for taking cognizance on police report by the Court for the said offence. It is premature to make any expression, but for, the police even files any such final report, the Magistrate cannot take cognizance on the police report.

So far as the offence under Section 500 I.P.C. is concerned, no doubt, there is a force in the contention of the learned counsel for the petitioner that the ingredients of Section 67-A of the I.T.Act, which requires primarily of publishing or transmitting of material containing sexual explicit act etc., are lacking. Even taken on face value of the said report allegations are true of asking to sell his wife, as the investigation is at nasal stage, the investigating officer shall take care of all these aspects, as part of the investigation.

Having regard to the above, the Criminal Petition is disposed of directing the police not to arrest the petitioner pending investigation and to complete the investigation within three months from the date of receipt of copy of this order and file final report. However, this does not prevent the police to secure the presence of the petitioner as and when required, for the purpose of investigation.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 29.08.2017
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