

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.4997 of 2017

ORDER:

Heard learned counsel for the petitioner/accused and also learned counsel for the 1st respondent-defacto complainant and the learned Public Prosecutor for the State and perused the grounds urged in the quash petition and the FIR and other material relied by both sides.

So far as the offence under Section 125-A of the Representation of Peoples Act 1951 amended by Act No.72/2002 with effect from 24.08.2002 concerned, the punishment provided is up to 6 months. The alleged election was held from the very complaint on 13.04.2014 the so called filing of nomination with the affidavit of declaration of 2 children and not more than 2 children as alleged cheating was prior to the date of election undisputedly. Even therefrom to the date of election, once the complaint is not filed within the prescribed period of limitation it is barred by limitation under Section 468 Cr.P.C. Thereby it is a fit to quash the offence under Section 125-A of Representation of Peoples Act. So far as the offence under Section 420 IPC concerned, the giving of affidavit is not in dispute, the only contention in the contents of the affidavit are true as per the accused and false as per the complainant. It is the matter for investigation. Therefore once the investigation is at nasal stage, this Court cannot interdict the investigation.

Having regard to the above, the Criminal Petition is disposed of by left open all future available defence to the accused and needless to say in the event of necessity of arrest, the police strictly

to follow Section 41-A Cr.P.C. and guidelines of the expression of the Apex Court in **Arnesh Kumar Vs. State of Bihar**¹.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 07.08.2017
ska



¹ 2014 (8) SCC 273