

HONOURABLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.9866 OF 2017

ORDER:

Heard the learned counsel for the petitioner/ A1 of P.R.C.No.22 of 2016 on the file of the Judicial Magistrate of First Class, Metpally, Jagtial District, for the offences punishable under Section 306 r/w 34 I.P.C., and the learned Public Prosecutor representing the State before ordering notice to the 2nd respondent/ de facto complainant, no other than wife of the deceased by name Islavath Pandu @ Pandu Naik and perused the grounds urged in the criminal petition and other material on record.

The prayer in the quash petition to dispense with the presence of the petitioner is concerned, the question of dispensing with the presence does not arise as one of the clauses of Section 209(a) to (d) requires presence of the accused for committal of the case including execution of bond, if any, pursuant to the bail order if any, as per the expression of the Apex Court in Raj Kishore Prasad v. State of Bihar¹.

Having regard to the above, as the committal proceedings are virtually based on cognizance, participation, instead of keeping the committal proceedings pending, by virtue of this order, the learned committal Magistrate is directed to commit the case to the Sessions Court within fifteen days from the date of receipt of copy

¹ AIR 1996 SC 1931

of this order, subject to the compliance of all requirements under Section 209 Cr.P.C. The remedies of the petitioner are left open from the cognizance before the Court of Sessions if any for filing of any application under Rule 37 of the Criminal Rules of Practice to decide on own merits, apart from any application for discharge under Section 227 Cr.P.C. as observed by this Court earlier, while disposing of the quash petition to invoke that remedy.

Accordingly, the Criminal Petition is disposed of.

Miscellaneous petitions pending if any, shall stand closed.

Date: 27-10-2017
pab

Dr. B. SIVA SANKARA RAO, J

