

THE HONOURABLE Dr.JUSTICE B.SIVA SANKARA RAO

Criminal Petition No.836 of 2018

ORDER :

The petitioner is A.3 in Cr.No.8 of 2018 of Paloncha Town Police Station, Bhadradi Kothagudem district, registered for the offence punishable under Section 420 IPC. His name was not there in the original First Information Report. It is during the course of investigation, disclosure statement of the co-accused came to light which shows that he is privy to the alleged occurrence in luring innocent unemployed to provide jobs in Kothagudem Thermal Power Station(KTPS). The contentions in the quash petition are that there is no basis to sustain the accusation against him based on the so called alleged confessional statement of co-accused which is when not admissible under Section 25 as well as Section 27 of the Indian Evidence Act(for short, 'the Act'). No doubt, the consideration of Sections 25 and 27 of the Act, leave about Section 30 of the Act, arises if at all it is admissible or not during trial or enquiry with reference to Section 136 of the Act, with reference to the relevancy and admissibility. It is premature for any disclosure during investigation points out the accusation against the other persons and it is the investigation prerogative therefrom to array as additional accused.

Having regard to the above, there is nothing to interfere with that crime investigation by array of the petitioner as A.3 but for to say none of his defences are prejudiced and always left open and as the offence under Section 420IPC is punishable not exceeding 7 years, if at all any arrest of the petitioner/ A.3 is required, the police shall strictly follow Section 41-A of CrPC, and also the guidelines in Arnesh Kumar Vs. State of Bihar¹.

¹ (2014) 8 SCC 273

In the result, the Criminal Petition is disposed of. Pending miscellaneous petitions, if any, shall stand closed.

Dr. B.SIVA SANKARA RAO J,

Date:30.10.2018
vvr

