

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION Nos.2149 & 2569 of 2018

COMMON ORDER:

The Crl.P.No.2149 of 2018 of petitioner-A.3 by name Naga Tulasi Prasad and the Crl.P.No.2569 of 2018 of petitioner-A.1 by name K.E.Shyam Babu were heard together from the request of both sides for common disposal from the common facts involved.

2. Both the respective petitioners are seeking to quash the proceedings of the private PRC.No.4 of 2018, taken cognizance by the learned JFCM, Dhone, by the order dated 16.02.2018, against three persons including the respective petitioners as A3 & A1, besides one Smt. Bojjamma as A2, on the private complaint of one Smt. K.Sridevi wife of first deceased by name K.Laxmi Narayana Reddy (for short 'deceased-Narayana Reddy') among two deceased including Boya Samba Sivudu of the occurrence dated 21.05.2017, in CFR.No.14343 of 2017 dated 27.12.2017 by following the procedure under Sections 200 to 204 r/w 190 CrPC in ordering to issue NBWs against them, covered by the impugned cognizance order passed against the three persons after recorded the sworn statements of the witnesses and from perusal of the material.

3. Same is in fact outcome of crime No.46 of 2017 of Krishnagiri Police Station registered on 21.05.2017 at 19.30

hours on the even report of One Sri Golla Krishna Mohan S/o Pullana, Cherkulapadu Village, Veldurthy Mandal, Kurnool District, working as driver of deceased Narayana Reddy, for the offences punishable under Sections 147, 148, 302, 109 r/w 149 IPC and Sections 3 & 5 of ES Act by the SHO.

4. Before coming to the private complaint if at all as protest against the police final report-cum-charge sheet for not charge sheeting A14 & A15 among 19 accused and Naga Tulasi Prasad, coming to the crime No.46 of 2017 that was registered on the report of Golla Krishna Mohan supra, working as driver of deceased Narayana Reddy for the past 20 years, for the offences referred supra by SHO, Krishnagiri Police Station, it reads that on that day 21.05.2017 at about 11.15 AM Narayana Reddy in the vehicle bearing No.TS-09-EP-2233 proceeded along with one Samba Sivudu and one Madhusudhan Reddy, driven by one Yellapa and followed by another vehicle AP-21-TV-1727 driven by him brought by Bathina Mallaiah, Gandu Chinna Madanna, Chekka Naganna and they started at Kosanapalli after attended the marriage of Sakshi Hanumanth and proceeded towards Ramakrishnapuram of Krishnagiri Mandal to attend the marriage of son of Kotamanu Srinivasulu and it was in the way after crossing Kosanapalli, while proceeding on Krishnagiri road, within two kms to Krishnagiri near culvert from the road was under repairs for the vehicle proceeding

slowly at culvert area supra because of the uneven road condition, suddenly from nearby fields Kuruva Ramanjaneyulu of Cherukulapadu came driving tractor given a dash suddenly to the front vehicle where Narayana Reddy was travelling and meantime Rama Naidu of Togaerchudu village came along with another tractor given a dash from front side of vehicle where Narayana Reddy was travelling and also pushed from side of the vehicle where Narayana Reddy was travelling meantime Ramanjaneyulu picked out a sickle and get down from the tractor by uttering the words 'dorkadura Narayana Reddy Narakandi Ra' and for that the persons from the field abutting the road who were lurking by names Kuruva Ramakrishna of Kosanapalle, Ramanjaneyulu, Balu, Chinna Yellappa, Pedda Yellappa, Venkata Ramudu, Srinu, Chakali Narayana, Ramanjaneyulu, Ramanjaneyulu S/o. Beesanna Gari Laxmanna, Pedda Beesanna with some others armed with sickles and stick straight knives and with country bombs attacked the Narayana Reddy, vehicle of Narayana Reddy wherein he was and break open the side window screen glass of the car wherein Narayana Reddy was and pushed down the Narayana Reddy by caught hold of when he was trying to flee away and killed with sickles and stick straight knives and also Pedda Beesanna S/o Bazari picked up the stone lying and hit on the head of Narayana Reddy and while Samba Sivudu who was also travelling with Narayana Reddy was fleeing away the accused persons

chased him and caught hold of him and killed him with sickles by cutting the throat it was at about 11.45 AM the occurrence taken place by fear of the accused having seen the occurrence he along with others in the 2 vehicles fled away towards Kosanapally. It is stated that it is the political rivalry and vengeance from which Narayana Reddy was killed and earlier Narayana Reddy contested against KE Krishna Murthy and defeated in the hands of KE Krishna Murthy and with congress party ticket and later Narayana Reddy joined YSR CP and acting as in charge of Pathikonda Assembly Constituency. The son of KE Krishna Murthy and by name KE Shyam Babu-A1 of the private PRC supra and A.14 in the FIR of crime No.46 of 2017 supra covered by the present report was going to contest from Pathikonda Constituency as announced by KE Krishna Murthy and KE Shyam Babu was making efforts since then to eliminate Narayana Reddy, the political opponent. Earlier there was an attack on Narayana Reddy at his house Cherkulapadu further in the case relating to illegal transportation of sand under the enquiry. The above persons made vain attempts in preparing to kill Narayana Reddy as the defacto complainant was so informed by Narayana Reddy as Narayana Reddy was having popularity in the public and definitely he could be elected if contested from the public grace thereby planned to eliminate him by said Shyam Babu to remove the hurdle of Narayana Reddy as informed by Narayana Reddy to defacto complainant before

facing the contest in ensuing elections. It is mentioned in the report further that for the double murder of Narayana Reddy and Samba Sivudu, KE Shyam Babu hatched the plan and implemented by utilizing the other accused supra besides Bojjamma daughter of late Venkatappa Naidu. He along with others witnessed the occurrence of double murder fled away from the scene of offence to Kosanepalli and therefrom to Cherukulapadu and secured some person's assistance in proceeding to Krishnagiri Police Station and presented the report hence to take action.

5. The charge sheet filed by police speaks from the crime registered and investigation conducted by examining witnesses referred supra that earlier K.Siva Reddy father of deceased Narayana Reddy was murdered on 26.10.1988 by Boya Bazari and others of Cherkulapadu, Veldurthy Mandal, covered by crime No.103 of 1988 of Veldurthy PS and later deceased Narayana Reddy and his followers damaged the houses of Boya Bazari etc., by set ablaze for which crime No.104 of 1988 of Veldurthy PS registered and said Bazari etc., left the village to Togarchedu of Krishnagiri Mandal due to fear of Narayana Reddy supra and Narayana Reddy also involved in the murder of Boya Kothulla Pedda Kesanna a relative of Bazari and later on 03.01.2005 Narayana Reddy supra and his followers killed Besannagari Chenna Besanna and Chinna Laxmanna covered by crime No.3 of 2005 of

Veldurthy PS and the deceased Besanna and Laxmanna supra therein are the uncles of A.1-B.Ramanjaneyulu, who was an eye witness in crime No.3 of 2005 and A.2-K.Ramanaidu is son of Boya Bazari supra and therefrom there are ill-feelings between the families. It is also averred A.1 to A.13, A.16 to A.19 are victims of deceased Narayana Reddy and were waiting for opportunity to take revenge against him. They having information on 21.05.2017 of Narayana Reddy would attend marriages in the villages of Veldurthy and Krishnagiri Mandals hatched plan to attack him and as part of their common object A.1 to A.13, A.16 to A.19 armed with sickles, daggers and country made bombs attacked and L.Ws.1, 7 to 11 having watched the occurrence out of fear could not prevent and interfere. A.1 to A.4, A.8 and A.12 made disclosures of they killed Narayana Reddy and Samba Sivudu as victims of Narayana Reddy who earlier even made efforts to kill A.1 and a week before the occurrence Samba Sivudu and Golla Krishnamohan threatened A.4 and thereby they planned and implemented. The call details of A.1 to A.13, A.16 to A.19 verified and confirmed the established contacts between them and as part of the plan participated in the occurrence and the motive is the previous enmity supra.

5(a). So far as Shyam Babu-A14 and Bojjamma-A15 of the crime No.46/2017 concerned, the charge sheet speaks

that though the witnesses made allegations against them of their encouragement to the other accused supra due to political rivalry in commission of the offence and from KE Krishna Murthy announced his son Shyam Babu as contestant for Pathikonda ensuing elections, Shyam Babu made several attempts to kill Narayana Reddy and for Narayana Reddy objected to the illegal sand business of Shyam Babu and other accused, a verification of the police records found that no cases registered on the complaint of Narayana Reddy against Shyam Babu for any earlier attempts by Shyam Babu against Narayana Reddy and coming to crime No.159 & 160 of 2016 of Veldurthy PS dated 30.09.2016 as case and counter against KM Seshu and others of Narayana Reddy group and against K.Peddaiah and others of accused group, Seshu follower of Narayana Reddy and care taker of his house went inside the house of Narayana Reddy to hide when above offence taken place and then A16 K.Peddaiah and A.2.K.Ramanaidu broken the glasses of Scorpio vehicle of Narayana Reddy in the absence of Narayana Reddy and his family members at the house for they are residing at Kurnool and it was not an attack on the house of Narayana Reddy but for the above and no complaint against A.14 & A.15 herein for that. Regarding illegal sand business and attack on Narayana Reddy concerned, the officials of Mining and Geology Department, Kurnool, conducted enquiry at Cherkulapadu Village as per High Court order and no one

attended the enquiry and there was no case reported of any attack in this regard on Narayana Reddy by Shyam Babu and others. Further the call details of Shyam Babu and Bojjamma having been analyzed and found that there is only one call from A.1 to A.14 and 9 calls between A.10 and A.14 in the 3 months duration up to 31.05.2017 and one call between A.15 & A17 and except the above there is no other evidence against A14 & A15 to prove that they are abettors of the crime and there are no any criminal cases previously against A14 & A15 much less any complaint of Narayana Reddy against any of them and thereby their involvement in the present crime No.46/2017 not proved. As referred supra, so far as Naga Tulasi Prasad concerned, there is no any allegation in the FIR or the statements to charge sheet him.

6. The private PRC complaint later filed by Smt. Sridevi, wife of deceased Narayana Reddy from the above on 27.12.2017 is with the averments, which for all purposes from same crime No.46 of 2017 of Krishnagiri Police Station at best a protest, against not charge sheeting A.14 & A.15 of the crime named supra and if at all by including Naga Tulasi Prasad as additional accused, as referred supra not even a witness to the earlier investigation but for to say being a victim wife of first deceased Narayana Reddy though not the defacto complainant or witness to the said crime entitled to raise the protest. Once such is the case, the protest must be

in pointing out what are the defects in the investigation including in non-inclusion of any penal provision or non-inclusion of any accused. When FIR in crime No.46 of 2017 of Krishnagiri Police Station was silent and the statement of her son and her late husband's brother as LW.3 & 2 during investigation of the crime also silent against Naga Tulasi Prasad, that too she did not choose to give her statement during investigation of said crime and none of the witnesses including defacto complainant-LW.1 in his statement made any accusation so far as against Naga Tulasi Prasad, is there any basis to take cognizance on the protest or private complaint so far as against Naga Tulasi Prasad concerned even from the array of him as A.3 in the complaint/protest petition from what all she stated in the complaint and in her statement recorded by the Magistrate is that A.1 to A.3 well predicted and pre-determined and precast the death of Narayana Reddy on the will, wish, conspiracy, abetment and connivance of them in extinguishment of life of Narayana Reddy by well orchestrated in advance with aid of other accused of crime No.46 of 2017 supra. It further speaks about the political animosities between the family of A.1 and A.2 (crime A.14 & A.15) etc., on one side and deceased Narayana Reddy on the other side, also in saying A.1-KE Shyam Babu group eliminated earlier Siva Reddy, father of deceased Narayana Reddy. It is also added saying after Shyam Babu's father KE Krishna Murthy was elected in 2014

General Elections for the MLA from Pathikonda, the audacities of them increased against Narayana Reddy and his family, from which Narayana Reddy resigned Congress party and joined YSR congress party and acting as in-charge of Pathikonda Constituency having rapport including with the masses of the constituency and as a rival to the ensuing elections of 2019 of the Pathikonda Constituency to the TDP prospective contestant Shyam Babu supra. It is averred therefrom of as part of their nefarious plan to fill cracks in the fort of A1-Shyam Babu supra to win future elections with criminal design of A.1 and A.2 all eliminated Narayana Reddy. What all it is averred so far as A.3-Naga Tulasi Prasad SI Veldurthy is that the mind of A.1 chore by A.2 with grudge against late Narayana Reddy's family as A.1 was acquitted in Siva Reddy murder case, being facilitated by A.3 SI Veldurthy with his overt and covert acts while acting as SI of Police Krishnagiri PS and it was apparently that A.3-Naga Tulasi Prasad was brought from Krishnagiri and placed as SI of Police Veldurthy PS, in whose jurisdiction Cherkulapadu Village comes under, which is a part of their grand design to eliminate Narayana Reddy. It is averred that right from the day of his posting till he was relieved therefrom to the vacant reserve by higher officials, at least as a face saving measure, A.3-Naga Tulasi Prasad acted in such a partisan manner by extending out and out support to even the criminal acts committed against deceased Narayana Reddy. It is further

averred on 30.09.2016 some of the accused of crime No.46 of 2017 supra ransacked the house of Narayana Reddy at Cherkulapadu Village and damaged their Scorpio vehicle lying at the house portico and when complaint was given to A.3-Naga Tulasi Prasad, he did not register any crime against real accused but against watchman of the house of Narayana Reddy. The High Court was to order an enquiry with regard to illegal sand mining of Shyam Babu supra and his entourage in the Handri-neeva river bed and A.3-Naga Tulasi Prasad even gone to the extent of threatening villagers not to participate in the enquiry ordered by High Court and these actions of A.3-Naga Tulasi Prasad infused confidence in the minds of other accused that A.3-Naga Tulasi Prasad can protect them and their illegal acts. While so, on 23.02.2017 there was a direction to deposit in Veldurthy PS the three licensed fire arms of deceased Narayana Reddy, due to the ensuing MLC elections of 21.03.2017 and the weapons that were to be returned to the depositors immediately after elections not returned to Narayana Reddy but in other police stations of the District returned, even Narayana Reddy made a request for its return the SI Veldurthy supra for more than two months after election and A.3-Naga Tulasi Prasad shared the information of non-return of the weapons to Narayana Reddy, with Shyam Babu and Bojjamma supra among all other accused of crime No.46 of 2017 supra the factum of the deceased Narayana Reddy is unarmed and unprotected so to

attack and it is with that evil design the gruesome double murder including of Narayana Reddy was planned and executed. The YSR CP president YSJM Reddy condemned death of Narayana Reddy and group of TDP support made comments in the face book of said condemnation as if wrong and A.3-Naga Tulasi Prasad also shared posting in the face book which shows his strong conviction to the elimination of Narayana Reddy. The conspiracy having been hatched by announcing the intentions and executed so blatantly. Even in crime No.46 of 2017 supra during investigation the witnesses LWs.1 to 8 spoke the role of A.1 & A.2 clearly who were A.14 & A.15 of the crime police managed to eliminate them from charge sheeting. On 25.02.2017 Narayana Reddy submitted a letter to the SP Kurnool with details of the animosity between his family and family of KE Krishna Murthy and son of Krishna Murthy by name Shyam Babu being declared as his heir apparent and there is threat to his life and requires protection and also addressed by another letter dated 27.02.2017 the Director General of Police in same line and that if anything happens it is Shyam Babu's responsibility to fix nothing taken care to protect him from which he was brutally murdered on 21.05.2017 which shows well net conspiracy and the letters are relevant so to prove with other overwhelming evidence of their role. The apathy of the investigating agency and the limping pace at which the investigation conducted by leaving the prime accused A.14 &

A.15 of crime No.46/2017 uncharged in spite of heap of evidence against them, by shunning to look into not only failure on the part of the State in discharge of duties but also spreading shameless message that the claw of the law could only catch smaller fish but not even scratch the whales and thereby constrained to knock the doors of the Court. It is averred that the witnesses examined during investigation of crime No.46 of 2017 supra of the double murder case besides the inquest proceedings among other spelt out clearly the role of the accused of the private complaint referred supra as part of the conspirators and abettors to the gruesome double murder thereby liable to be booked. The IO in crime No.46/2017 even failed to incorporate what has been stated by the defacto complainant and witnesses. On 09.05.2017 Boya Srinivasulu came to the house of Narayana Reddy at Krishna Nagar Kurnool and told that on that day he went to the meeting of Neeru-Chettu program convened by the Deputy CM Sri KE Krishna Murthy at Sudhepalli-Cheruvu of Veldurthy Mandal and after meeting it was about 2 PM all the VIPs including him went to the Vamsi Guest House of Veldurthy and he went there to meet the Deputy CM Krishna Murthy to ventilate his grievance but security people did not allow so to meet after he came out and he stayed there as such near the wall and meantime A.1-Shyam Babu & A.3-Naga Tulasi Prasad came out and stood at other side of the wall having not noticed him, were talking where Shyam Babu

thanks Naga Tulasi Prasad for withholding the weapons of Narayana Reddy so that they would accomplish the work. Thus A.3-Naga Tulasi Prasad is hand in glove with A.1 to the conspiracy to do away Narayana Reddy by facilitating all accused to kill the unarmed Narayana Reddy by withholding the licensed weapons lying at Veldurthy PS. Thereby she has sought to take cognizance against them on private complaint. The sworn statements recorded by the Magistrate on the private complaint by allotting CFR.No.14343 of 2017 are that of her, Boya Srinvasulu, defacto complainant of crime No.46 of 2017 Golla Krishnamohan, S.Madhusudhan Reddy (her brother), B.Mallaiah, K.Pradeep Kumar Reddy (brother of Narayana Reddy), Boya Naganna @ Cheka Naganna, Golla Yellapa, Gandu Chinna Madanna and of whom Pradeep Kumar Reddy supra was LW.2 in crime No.46/2017, Golla Yellapa as LW.8 in crime No.46/2017, Boya Naganna as LW.10 in crime No.46/2017 and Golla Krishnamohan as LW.1 in crime No.46/2017. Having been examined as witnesses during investigation by those named supra in crime No.46/2017, they have to say whether statements during investigation why not contained the improvements as to IO not properly recorded or not even examined, however what they stated is having stated the facts when police examined, they are unable to say whether police incorporated or not therein.

7. Coming to the cognizance order of the learned Magistrate therefrom, (this is the present impugment in both the petitions by A.1 and A.3 supra), it speaks that as seen from the sworn statements of the witnesses recorded, there is prima facie case against A1 to A3 well founded of with their active support the offence was committed by others. Though A3 is a public servant, no prior sanction is required. Hence taken cognizance of the offences, which are triable before Court of Sessions, to commit the case on securing accused Nos.1-3 by NBWs ordered. Also observed that as per the judgment of Delhi High Court in **TS Sawhney vs. The State**¹ when facts not contradictory of police case and private complaint case, for offence involved is one and same, Section 210 CrPC applies to conduct single trial.

8. The contentions in both the quash petitions in support of the prayers supra are that the cognizance taken by the learned Magistrate on 16.02.2018 against A.1 to A.3 and in ordering to issue NBWs for securing their presence concerned is per se unsustainable for the petitioners are innocent and are falsely implicated. It is also contended that even names of A.1 and A.2 of the private PRC cognizance order of the learned Magistrate supra dated 16.02.2018, reflected in the original crime during investigation as A.14 and A.15, from the investigation having found no any role or

¹ 1987 CrLJ 1079

basis to impute any role of them including from any extra judicial confessions of other accused when silent about them, their names were rightly deleted from the police final report, but for charge sheeting other out of the 19 accused by the Investigating officer and the so called overhearing of conversation between A1 & A3 besides false and introduced can no way a basis to implicate any of them. It is also averred that the A3 as SI of Police, Veldurthy PS, allegedly did not return the licensed weapon of deceased Narayana Reddy that was deposited during the MLC elections by itself no way constitutes any offence for the factum of the deceased was later killed much less to take cognizance for the offences punishable under Sections 147, 148, 148, 302, 109 r/w 120-B IPC and Sections 3 & 5 of Explosive Substance Act, on the private complaint. The allegation against the A3-SI of police of he has conspired with other accused resulted committing murder of deceased Narayana Reddy is baseless much less to say from weapon of offence deposited by deceased Narayana Reddy was not returned; for the fact remains it was said Narayana Reddy deceased who has to surrender the weapon before the concerned police station during elections and having so deposited voluntarily, he did not take the weapon back. It is therefrom cannot be said had the weapon taken by him back, the incident of his murder could not have been happened, much less to rope the SI of Police, Veldurthy, by then as co-accused with others therefrom. It is also averred

that A.1 is roped with political motive and to deprive his future political mileage. Thereby the cognizance order of learned Magistrate in allotting PRC.No.4 of 2018 in taking cognizance for the offences supra including against the petitioner/A.3 along with A.1 and A.2 is no way sustainable and sought for quashing.

9. Heard both sides at length and perused the material on record.

10. From the police report, there is a specific allegation so far as against KE Shyam Babu S/o KE Krishna Murthy concerned, as conspirator and as abettor, as part of the conspiracy among accused persons so also against Bojjamma and 18 persons named in the FIR. The FIR thus registered against 15 named persons among others which included KE Shyam Babu as A14 and Bojjamma as A15. There is no whisper in so far as Naga Tulasi Prasad, SI of Police of Veldurthy PS concerned of his any role. The occurrence was admittedly taken place within Krishnagiri PS jurisdiction and not within Veldurthy PS jurisdiction though deceased Narayana Reddy was resident within the Veldurthy PS jurisdiction and staying at Kurnool. The police final report in the form of charge sheet filed by charging among 19 accused only 17 accused and not charged having been deleted from the FIR array A.14 & A.15 by names KE Shyam Babu and Bojjamma supra even in the charge sheet, this Sub Inspector

of Veldurthy PS by name Naga Tulasi Prasad-A.3 of Private PRC was not an accused. So far as statements of witnesses during investigation in filing the charge sheet concerned what all stated by defacto complainant as LW.1 examined by ASP Dhone on 22.05.2017 at 11.45 hours at page No.3 of the handwritten contents further reads as addition to the report that Narayana Reddy few days earlier by apprehending of life threat in the hands of KE Shyam Babu complained to SP, Kurnool and other police superior officers and KE Shyam Babu and Bojjamma are privy with other accused as part of their nefarious plan in cause murdering Narayana Reddy. LW.2-Pradeep Kumar Reddy also stated in same lines. LW.3-K.Ram Mohan Reddy S/o deceased Narayana Reddy also stated in same lines. LW.4-SCS Reddy also stated in same lines. LW.5-B.Jaya Ramudu also stated in same lines though hear say. LW.6-B.Ramulamma also stated in same lines though hear say. LW.7-S.Madhusudhan Reddy also stated in same lines. Out of the 29 witnesses shown in the charge sheet, LW.8 to 14 also stated about the motive behind the occurrence and presence at the time of inquest or speak the facts of presence of charge sheeted accused at the place of offence at and before the occurrence. LW.15 & 16 are witnesses to the inquest and identification of chappals of the deceased which are seized from the disclosures by mostly among A.1 to A.13 other than A.10. LW.17 & 18 are also inquest witnesses of the dead body of 2nd deceased Samba

Sivudu and arrest of A.16 to A.19 and disclosure and seizure panchanamas of them. LW.19 speaks of arrest of A.10 and disclosure, LW.20 & 21 speaks of arrest of A.1 to A.4, A.8 to A.12 and interrogation or disclosure. LW.22 is the Doctor who conducted autopsy on the bodies of the two deceased. LW.23 Assistant Director, TSFSL who issued FSL report after examination of material objects sent to him with his expert opinion. LW.24 RFSL Kurnool In charge given another analysis report and LW.25 scientific officer of TSFSL Hyderabad given another analysis report, LW.26 from the office of the District Collector accorded sanction for the Explosive Substances Act prosecution. LW.28 & 29 are SI Krishnagiri and SDPO Dhone, the police officers speak their registration of the crime, investigation and filing of charge sheet. Thus but for what LW.1 defacto complainant stated about Narayana Reddy apprehended life threat from Shyam Babu sometime before the date he was killed approached or complained to the SP and other police officers there is no whisper about any complicity of the petitioner/Naga Tulasi Prasad-A3, SI of Police Veldurthy to the crime.

11. So far as the private PRC proceedings in protest against deletion from the accusation of the FIR of Shyam Babu and Bojjamma, A.14 & A.15 of the FIR and by including Naga Tulasi Prasad in the private PRC as a protest to the original investigation concerned, once there is no whisper in

the FIR or in the investigation material covered by the charge sheet so far as Naga Tulasi Prasad, SI of Police in saying by the present private complaint petitioner Smt. K.Sridevi W/o late Narayana Reddy concerned, she was undisputedly as per the charge sheet in crime No.46 of 2007 not a witness but for her son-LW.3-K.Ram Mohan Reddy and her late husband Narayana Reddy's brother, Pradeep Kumar Reddy-LW.2. She did not choose to speak in said investigation for not even eye witness to the occurrence of crime No.46 of 2017 covered by police charge sheet deleted A.14 & A.15 among 19 accused, it is only the police complaints of deceased Narayana Reddy to consider and what Boya Srinivasulu stated of so called overhearing of conversation of Shyam Babu and Naga Tulasi Prasad. So far as the Veldurthy SI of Police Naga Tulasi Prasad concerned, the counter affidavit in opposing the quash petition and arguments of counsel for defacto complainant with reference to it even taken consideration, the so called face book post of the SI of Police Naga Tulasi Prasad by supporting TDP and as a counter to the statement of Sri Jagan Mohan Reddy condemning murder of Narayana Reddy and another, is highly discouraging for not supposed to involve in politics by affiliation to any party, being a public servant, though by itself not possible to implicate him. Even coming to the so called Boya Srinivasulu stated of overhearing of conversation of Shyam Babu and Naga Tulasi Prasad, what all he did not state during investigation of the

crime and even believed his version before Magistrate in the sworn statement of he does not whether police recorded or not but what he stated, that at best indicates Shyam Babu stated Naga Prasad of did a good thing in not return of the weapons to Narayana Reddy so to retain to implement in the meantime their nefarious plan. In fact a perusal of the material shows the MLC election notification was dated 21.02.2017, election to conduct on 24.03.2017 and election schedule was published on 14.02.2017 and it is the Collector to the Superintendent of Police on 20.02.2017 from the above and from instructions of the Chief Election Officer, for free and fair elections to conduct directed to take preventive actions to maintain law and order by execution of NBWs, ban in sale of illicit liquor, ban on carrying licensed arms, ban on issue of license of arms, seizure of unlicensed arms and ammunitions, deposit of licensed arms, transportation of arms and ammunitions etc., to take necessary action immediately. The letter written by the deceased Narayana Reddy on 28.03.2017 to the District Magistrate & Collector in saying he earlier produced 315 rifle No.AB-14-03311, DBBL Gun No.1193, C/9 purchased from Rafiq Armory of Charminar Road, Hyderabad vide DL.No.23454 dated 25.03.2016 expiring by 31.03.2017, on 01.04.2014 & 31.03.2017 time fixed for renewals hence to cause renew with three years continuity and enclosing Xerox copies in proof of it and paid the renewal fees by challan on that day of

Rs.390/- at Treasury Office, Kurnool, for gun license renewal. The District Collector addressed the SP, Kurnool on 03.04.2017, saying Narayana Reddy applied for renewal of his armed license beyond 31.03.2017 of his arms license No.9/Veldurthy, hence to enquire in the matter and offer remarks. The District Police Office, Kurnool, on 19.04.2017 forwarded to the Inspector, Dhone Circle, to send his recommendation or non-recommendation within one week therefrom. It clearly shows nothing in the hands of the SI of Police of Veldurthy by then by name Naga Tulasi Prasad of retaining the arms but for what Narayana Reddy deposited if at all to continue till orders of superiors for his taking back. Thus, the so called overhearing is no way co-relating to the above documentary material to give any credence with any iota of truth therein, leave about had it been true it should have been and also claimed so stated by him to Narayana Reddy for his immediately reporting to the superior police officers or at least to take back the weapon if otherwise entitled for not a case of claimed and refused much less with recorded proof in this regard. The conduct of the SI with regard to any manhandling of press photographer while covering of any house ride in any crime, leave about the alleged illegal manner of conducting the search, also no way implicate him as conspirator with Shyam Babu to eliminate Narayana Reddy. Once that is the link, that is missing there is nothing to implicate the SI of Police Naga Tulasi Prasad for

the learned Magistrate to take cognizance for any offence against him that too when he is a public servant discharging his official duties in retention of the deposited arms for so called non-return for alleged attribution of part of conspiracy when purportedly discharging his official duties sanction is a must under Section 197 CrPC for private complaint to entertain and to take cognizance against him and the learned Magistrate in the cognizance order did not discuss anything as to why sanction is not required to take cognizance and did not even apply his mind for what offence made out against him and what other basis to attribute conspiracy against him. Even coming to the earlier police complaints given by Narayana Reddy to the SP and to the DGP apprehending any life danger to him nothing is against the SI of Police Naga Tulasi Prasad. As discussed supra, once that link of alleged conspiracy from so called overhearing of A.1 and A.3 conversation from what Boya Srinivasulu stated in the private complaint sworn statement supra hardly believable as discussed supra there is nothing basis therefrom to implicate A.1 Shyam Babu or A.2-Bojjamma much less along with them A.3-Naga Tulasi Prasad, SI of Police. The police final report clearly speaks the reasons for not charging A1 and A2 who were A14 & A15 of the FIR. So far as the statement on the private complaint of wife of Narayana Reddy concerned so also other witnesses of KE Krishna Murthy after his election from Pathikonda Constituency declared future contestant in

2019 is his son Shyam Babu-A1 and from Narayana Reddy got influence in masses to succeed that became eyesore to Shyam Babu with fear of not going to succeed against Narayana Reddy in 2019 elections thereby developed enmity against him and alleged conspired with other accused to eliminate Narayana Reddy. It was only her inference so also of others with no basis to implicate with any conspiracy therefrom. The police final report when shows no any material of earlier criminal cases or even one against other Narayana Reddy and Shyam Babu at least as witnesses in criminal cases, unless there is some material basis the oral inferences of the witnesses sworn statements cannot be the basis to implicate A1-Shyam Babu as conspirator with other accused to eliminate Narayana Reddy, that too the conspiracy to be proved is by showing circumstances prior to the date and time of murder of Narayana Reddy of any part of Shyam Babu with basis to infer as a man of prudence of his privy to any nefarious plan to eliminate Narayana Reddy which is missing in the case on hand and suffice to say the cognizance order against A.1 thereby also no way sustain. The contention that once the witnesses in the sworn statements of the protest petition covered by the private complaint given their versions showing complicity of the three accused and the learned Magistrate accepted the same in taken cognizance, this Court under inherent power the applications under Section 482 CrPC cannot weigh the material much less to

come to a different opinion is not tenable for what is bar is pre-trial judging but not consideration of prima facie material to the accusation or not. The decisions placed reliance by both sides having been perused, no way able to sustain the cognizance order, for no precedents on facts particularly in the criminal cases no two cases facts are same or similar but for as laid down each case depends on own facts to appreciate and the inherent powers are meant to sub serve the ends of justice and to prevent abuse of process and but for self imposed limitations to achieve the above there are no limitation on exercise of the power as ends of justice are supreme for law bends before justice and not vice versa and merely because number of witnesses made a mention of a fact in the pre-cognizance private complaint enquiry with no whisper in the prior investigation of the crime registered by police, that is not the be all to implicate persons in grave crime covered by belated versions or assumptions with no any material to the specific role and basis to implicate. Both the petitions are thus to be allowed by quashing the private complaint cognizance orders against them.

12. Having regard to the above and in the result, both the Criminal Petitions are allowed by quashing the private complaint cognizance orders against them. However by made clear as also held by the recent Division Bench expression of the Apex Court that during trial in the sessions case that if at

all there is any worth evidence came on record against any role of them in commission of the crime for the offences covered by crime No.46/2017 with police final report finding with committal to the Court of Sessions for pre-charge enquiry or the like and from post charge trial, either the victim or the witnesses or the prosecution can move the learned trial Judge under Section 319 CrPC for proceeding against by adding as co-accused.

Miscellaneous petitions, if any, shall stand closed.

Date: 31.12.2018
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Dr. B. SIVA SANKARA RAO, J

