

SMT JUSTICE T.RAJANI
CRIMINAL PETITION No.1127 OF 2013

ORDER:

1. This Criminal Petition, under Section 482 of Cr.P.C., is filed by the Petitioners/Accused Nos.1 to 3 seeking to quash the proceedings in Crime No.274 of 2012, pending on the file of the Station House Officer, Rajahmundry III Town Police Station, Rajahmundry Urban, registered for the offences punishable under Sections 420, 465, 467, 468 and 471 R/w.34 of I.P.C.

2. Heard learned counsel for the petitioners, learned Public Prosecutor, appearing for the 1st respondent – State, and learned counsel for the 2nd respondent – *de-facto* complainant.

3. Learned counsel for the petitioners submits that the 2nd respondent/de-facto complainant died. He further submits that, on merits of the case, the complaint filed by the complainant is not accompanied by any affidavit as mandated by the Apex Court in the ruling reported in ***Mrs. Priyanka Srivastava and another Vs. State of U.P. and others***¹; wherein the Apex Court held as follows at Paragraph No.27:

“27. In our considered opinion, a stage has come in this country where Section 156(3), Cr.P.C. applications are to be supported by an affidavit duly sworn by the applicant who seeks the invocation of the jurisdiction of the Magistrate. That apart, in an appropriate case, the learned Magistrate would be well advised to verify the truth and also can verify the veracity of the allegations. This affidavit can make the applicant more responsible. We are compelled to say so as such kind of applications are being filed in a routine manner without taking any responsibility whatsoever only to harass certain persons. That apart, it becomes more disturbing

¹ AIR 2005 SC 1758

and alarming when one tries to pick up people who are passing orders under a statutory provision which can be challenged under the framework of said Act or under Article 226 of the Constitution of India. But it cannot be done to take undue advantage in a criminal court as if somebody is determined to settle the scores. We have already indicated that there has to be prior applications under Section 154(1) and 154(3) while filing a petition under Section 156(3). Both the aspects should be clearly spelt out in the application and necessary documents to that effect shall be filed. The warrant for giving a direction that the application under Section 156(3) be supported by an affidavit so that the person making the application should be conscious and also endeavour to see that no false affidavit is made. It is because once an affidavit is found to be false, he will be liable for prosecution in accordance with law. This will deter him to casually invoke the authority of the Magistrate under Section 156(3).”

4. Learned counsel further submits that the averments in the complaint would show that there are civil disputes pending between the parties.
5. Hence, considering the above, this Court opines that this is a fit case to quash the proceedings against the petitioners.
6. Accordingly, the Criminal Petition is allowed and all further proceedings against the Petitioners/A-1 to A-3 in Crime No.274 of 2012, pending on the file of the Station House Officer, Rajahmundry III Town Police Station, Rajahmundry Urban, are hereby quashed.
7. As a sequel, miscellaneous petitions if any, pending in this Petition shall stand closed.

T. RAJANI, J

Date: 26.12.2018.
Dsh

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