

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.5394 OF 2016

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C by the petitioner/ A1, seeking to quash the proceedings in Crime No.117 of 2016 on the file of Neredmet Police Station, Cyberabad District, registered for the offences punishable under Sections under Sections 493 and 120B IPC in all against two accused on 04.03.2016.

Heard learned counsel for the petitioner and learned Public Prosecutor appearing for the State in opposing the criminal petition, and the learned counsel appearing for respondent No.2/ de facto complainant and perused the FIR, quash petition averments and other material on record.

Basically the offence under Section 493 IPC is a non-cognizable one. Police did not follow on the face of the FIR, the procedure contemplated under Section 155(2) Cr.P.C. Thereby, the registration of crime is unsustainable. One of the contentions of the learned counsel for the 2nd respondent/ de facto complainant is that had the police properly appreciated the facts of the FIR, it discloses the other cognizable offences. Once police by application of mind came to the conclusion of only a non-cognizable offence is made out, they could not have directly registered the crime

but for obtaining permission of the learned Magistrate as contemplated by Section 155(2) Cr.P.C.

Having regard to the above, the clock is reverted back to the original report to the police by setting aside the crime registration by giving liberty to the police if at all any offence cognizable or non-cognizable made out, follow the procedure contemplated by Sections 154 and 155 Cr.P.C. afresh.

Miscellaneous petitions pending if any, shall stand closed.

Date:04.12.2018
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Dr. B. SIVA SANKARA RAO, J

