

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.100 of 2017

ORDER:

The criminal petition is filed for quash of the proceedings in CC.No.318 of 2016 on the file of the II Additional Judicial Magistrate of First Class, Huzurabad, Karimnagar. The offences alleged against the petitioner are under Sections 195A, 506 read with 109 of the Indian Penal Code, 1860.

2. Heard the counsel for the petitioner and the learned Public Prosecutor, appearing for the first respondent. None appears for the second respondent in spite of notice.

3. The counsel for the petitioner assails the cognizance order in respect of two offences on two different grounds. As regards the offence under Section 195A IPC, the counsel contends that Section 195A of the Criminal Procedure Code prescribes a procedure as to how a complaint has to be lodged.

4. As per Section 195A Cr.P.C, a witness or any other person may file a complaint in relation to an offence under Section 195A IPC. The counsel contends that the procedure to be followed, for a complaint under Section 200 Cr.P.C., is not followed in this case. In this case, based on the representation given by the complainant, the police registered the case and the same was investigated into and later cognizance was taken. Hence, it amounts to violation of the procedure prescribed under Section 195A Cr.P.C. Hence, the same cannot be sustained.

5. As regards Section 506 IPC, the counsel contends that it being non-cognizable offence, permission has to be taken from the Magistrate by the Investigating Officer before the investigation of such offence, as per Section 155(2) Cr.P.C. The learned Public Prosecutor, on instructions, reports that no such permission was obtained by the Investigating Officer. He also does not refute the contention about following the procedure adopted in respect of the offence under Section 195A IPC.

6. The counsel for the petitioner relied on two decisions of this Court in support of his contentions i.e. CRLP.No.15284 of 2016 dated 26.10.2016 wherein this Court relied on the earlier decision of this Court rendered in *N.T. RAMA RAO v. STATE OF AP* [CRLP.No.5323 OF 2009] and held that the proceedings shall not be continued due to technical defect of obtaining permission under Section 155(2) Cr.P.C. and taking cognizance on the complaint filed VRO and it is against the purport of Section 195(1)(a) Cr.P.C.. The other decision rendered by this Court in CRLP.Nos.6996, 7002, 7003 and 7005 of 2015 dated 14.08.2015, which is also on the same lines.

7. Hence, in view of the above, this Court opines that continuation of further proceedings against the petitioner would result in sheer abuse of process of law.

The criminal petition is allowed and the proceedings in CC.No.318 of 2016 on the file of the II Additional Judicial Magistrate of First Class, Huzurabad, Karimnagar, against the petitioner, are hereby

quashed. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

January 5, 2018
DSK

T. RAJANI, J

