

THE HONOURABLE Dr.JUSTICE B. SIVA SANKARA RAO

Writ Petition No.4445 of 2017

ORDER :

Heard the learned counsel for the petitioner/ A.3 and the learned Govt. Pleader for Home representing the respondents 1 to 3 and also heard the learned counsel for R.4-defacto-complainant and perused the prayer in the writ petition with the supporting affidavit and counter affidavit of respondents 1 to 3 and the material on record.

2. The prayer in the Writ Petition reads as follows:

“to issue an appropriate Writ, order or Direction more particularly one in the nature of Writ of certiorari calling for the records relating to and connected with FIR No 271/2016 on the file of the Respondent no 3 and quash the same by holding it as illegal against the Petitioner/Accused No.3 to pass such other order or orders.”

3. It is the supporting affidavit averment that the very report on which the crime registered as Cr.No.271 of 2016 by the R.3-The SHO, Eluru III Town Police Station, West Godavari District, on the report of the R.4 is as vague as anything with no case made out to sustain any accusation much less to make out a cognizable offence and thereby the FIR is liable to be quashed.

4. The counter affidavit of respondents 1 to 3 shows that from the very report there is a cognizable offence from which the crime is registered and pursuant to the interim order of this Court dated 09.02.2017 to follow the procedure under Section 41-A amended Cr.P.C., notice issued to the petitioner among the two others of whom he is A.3 during investigation but he did not respond and the crime is in progress and the police will complete the investigation soon and file final report.

5. It is the submission of the learned counsel for the R.4/defacto-complainant that there is a prima facie case of cheating and forgery for the

purpose of cheating by using as a genuine a forged document for which the crime is registered and thereby the writ petition is liable to be dismissed.

6. Having regard to the above, the Writ Petition is disposed of directing the respondents to complete the investigation within two (2) months and file final report and in the meantime not to arrest, however it will not prevent the police to secure the presence of the petitioner for the purpose of investigation and the petitioner is bound to appear as and when required by the police for the purpose of investigation failing which there is no bar for arrest.

7. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

Date:30.04.2018
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Dr. B.SIVA SANKARA RAO J,