

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.8202 OF 2018

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C by the petitioners/ A2 and A1, seeking to quash the proceedings in C.C.No.87 of 2018 on the file of the Metropolitan Sessions Judge-cum-Special Judge, where taken cognizance for the offences punishable under Sections 354-A, 420, 506, 328 r/ w 34 IPC and Section 20(B)(i) of the Narcotic Drugs and Psychotropic Substances Act (for short 'NDPS Act'), which is outcome of Crime No.12 of 2017 on the file of Muvvalavanipalem Police Station, Visakhapatnam District.

2. Though notice served on the 3rd respondent/de facto complainant, she failed to attend. Heard the learned counsel for the petitioners and the learned Public Prosecutor appearing for respondents 1 and 2 representing the State and the Station House Officer.

3. The above Crime was registered for the offences supra registered by LW.21, Station House Officer, Muvvalavanipalem Police Station, on 11.01.2017 at about 9.30 p.m. on the report of the 3rd respondent/de facto complainant(LW.1) what she stated is mainly of she asked A1- Adari Ravi Kumar, for return of her gold jewellery, A1 asked her to come to Park Hotel and when she visited, he informed that his gold ornaments were kept with his assistant-Krishna and asked the de facto

complainant to accompany in his car bearing No.AP 31 DC 4969 and in the transit of their journey, A1 offered prasadam by mixing some intoxication item, she ate the same and undergone drowsiness, at that time, A1 tried to abuse and put his hand on her chest. As she raised a loud cry, A1 left there from. Then she went to her office and informed LW2. LW1 came to know that her jewellery which was handed over to A1 and A2 were exchanged at Lalitha Jewellery during November, 2016 itself. LW1 therefrom requested to take action.

4. Originally, there is no crime registered under any of the IPC offences or NDPS Act, but registered under Section 328 IPC. So far as any administering of the tropic fine drug under Section 328 IPC and punishable under Section 328 IPC concerned what it speaks whoever administers to or causes to be taken by any person any poison or any stupefying, intoxicating or unwholesome drug, or other thing with intent to cause hurt to such person or with intent to commit or to facilitate the commission of an offence or knowing it to be likely that he will thereby cause hurt, shall be punished with imprisonment of either description for a term which may extend to ten years, and with fine.

5. The police, after investigation, filed charge sheet against the accused by also adding in the course of

investigation from the mention of Section 18 of the NDPS act to 20(b)(i) of the NDPS Act.

6. One of the contentions are that leave about no offence that attracts against A2. So far as A1 concerned even no offence under 18 or 20 of the NDPS Act or other penal provision of NDPS and mandatory provisions of Sections 42 and 50 of NDPS Act among other, not even followed and thereby, cognizance taken by the learned Special Judge in allotting sessions case number under Section 190/ 193 Cr.P.C. no way survives.

7. A perusal of the material on record shows some factual aspects are to be adjudicated also with reference to the entire material of the charge sheet which is not fully available before the Court. Once the material falls short, this Court is not in a position to express anything.

8. Having regard to the above, the Criminal Petition is disposed of giving liberty to the petitioners to file if at all any application for discharge, if no grounds to frame charge to consider on own merits.

9. Miscellaneous petitions pending if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 23.11.2018
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