

CRIMINAL PETITION No.8681 of 2018

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C by the petitioners/ A1 to A5, seeking to quash the proceedings in C.C.No.578 of 2013 on the file of the Special Judicial Magistrate of First Class (for Prohibition and Excise), Kurnool, registered for the offences punishable under Sections 193, 420, 468, 471 r/ w 34 I.P.C.

2. The above C.C. is an outcome of a private complaint referred to police for investigation under Section 156(3) Cr.P.C. for registration of Crime No.26 of 2012, dated 23.01.2012 and the police, after investigation, filed a referred report from which the 2nd respondent/de facto complainant raised a protest by filing protest application that was taken cognizance for the offences supra from the said protest petition by following the private complaint procedure.

3. After taking cognizance, summons issued under Section 204 Cr.P.C. and on supply of copies under Section 206/ 208 Cr.P.C. from appearance of the accused, the Court in the pre-charge/ discharge stage, started recording of evidence as contemplated by Section 244 Cr.P.C.

4. After completion of the witnesses summoned or produced on behalf of the prosecution, if at all the accused not chosen to cross examine by deferring cross examination, the trial Court should have been framed a charge, if not discharged as

contemplated by Sections 246(1) to (3) Cr.P.C., where there is no plea of guilty from substantive evidence to frame charge and framed charge without defer, the accused is entitled to cross examine the witnesses and can ask the Court for recall of any witnesses. Here, the trial Court, it appears as can be seen from the docket order, dated 16.08.2018, after recording the evidence of the prosecution including by cross examination of the witnesses done by accused at the pre-charges stage, posted the matter as if on completion of trial under Section 313 Cr.P.C. for examination of the accused. In fact, charges are to be framed at this stage and if at all there is no material to frame charge from the evidence on record placed by both the parties including cross examination of the prosecution witnesses, the Court can discharge and if charges framed and read over and explained and not pleaded guilty as contemplated by Section 246(3) Cr.P.C. if accused chooses to further cross examine can recall any of the witnesses and it is only thereafter, the Section 313 Cr.P.C. examination of accused arises.

5. With the above observations, the Criminal Petition is disposed of directing the trial Court to proceed further in the matter.

6. Consequently, miscellaneous petitions, if any shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 22.10.2018
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