

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

Crl.P. No.9515 OF 2018

ORDER:

This petition is filed under Section 482 Cr.P.C. to issue a proper direction to the Judicial Magistrate of First Class, Zaheerabad to dispose of C.C.No.243 of 2018 on the ground that Crime No.156 of 2018 was registered on 15.08.2018, for the offences punishable under Sections 323 and 504 IPC based on the written report lodged with the police.

Later, the 2nd respondent – M.Vijaya Kumar filed private complaint on the same allegations and after following necessary procedure, the Magistrate took the case on file and registered as C.C.No.243 of 2018. Out of the same incident, the accused cannot be tried for the same offence. When the police report and the private complaint are filed, the procedure to be followed under Section 210(2) Cr.P.C., which reads as follows:

210. Procedure to be followed when there is a complaint case and police investigation in respect of the same offence.

(1) When in a case instituted otherwise than on a police report (hereinafter referred to as a complaint case), it is made to appear to the Magistrate, during the course of the inquiry or trial held by him, that an investigation by the police is in progress in relation to the offence which is the subject-matter of the inquiry or trial held by him, the Magistrate shall stay the proceedings of such inquiry or trial and call for a report on the matter from the police officer conducting the investigation.

(2) If a report is made by the investigating police officer under section 173 and on such report cognizance of any offence is taken by the Magistrate against any person who is an accused in the complaint case, the Magistrate shall inquire into or try together the complaint case and the case arising out of the police report as if both the cases were instituted on a police report.

(3) If the police report does not relate to any accused in the complaint case or if the Magistrate does not take cognizance of any offence on the police report, he shall proceed with the inquiry or trial, which was stayed by him, in accordance with the provisions of this Code.

In the present case, Crime No.156 of 2018 is pending for investigation and no final report is filed, but the Magistrate took the cognizance of offence punishable under Sections 323, 342, 504 and 506

IPC in the complaint case filed by the 2nd respondent. Therefore, till receipt of final report, it is appropriate to stay all further proceedings in C.C.No.243 of 2018, otherwise, it would lead to multiplicity of proceedings.

In view of the above, the criminal petition is disposed of directing the Magistrate to follow the procedure under Section 210 Cr.P.C. while granting stay of all further proceedings in C.C.No.243 of 2018 on its file, till the date of filing final report under Section 173 Cr.P.C. in Crime No.156 of 2018.

Pending miscellaneous petitions in the petition, if any, shall stand closed.

06.09.2018
kvrm



M.SATYANARAYANA MURTHY,J