

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.7805 of 2017

ORDER :

The petitioner is the *de facto* complainant of Crime No.107 of 2018 of Law and Order Suryaraopet Police Station, Vijayawada Commissionerate, that was registered for the offences punishable under Sections 448, 326 and 307 read with 120(b) IPC, dated 13.05.2008 against respondent Nos.2 to 5/A.1 to A.4. The police after investigation filed the charge sheet and that was taken cognizance against them and committed the same to the Metropolitan Sessions Division, where allotted S.C.No.113 of 2009 and made over for trial to the VIII Additional District and Sessions Judge, Vijayawada, where it is pending. The petitioner/*de facto* complainant filed C.F.No.8323 of 2011 stating there are other accused also, who were not charged and that protest application is pending before the III Additional Chief Metropolitan Magistrate, Vijayawada.

2. The main grievance is that without disposal of the protest petition pending III Additional Chief Metropolitan Magistrate, Vijayawada, learned VIII Additional District and Sessions Judge, Vijayawada, is proceeding with the trial of the matter from charges already framed and examined thereon. The application need not be kept pending, but for disposal in directing the learned III Additional Chief Metropolitan Magistrate, Vijayawada, to dispose of the protest application preferably within one month from the date of receipt of a copy of this order. The learned VIII Additional District and Sessions

Judge, Vijayawada, shall wait for one month from the date of receipt of a copy of this order and thereafter proceed with the trial without reference or waiting for disposal of the said protest application as if there is any grievance that can be independently be looked including from the evidence if at all any necessity to invoke under Section 319 Cr.P.C. as per the Five Judge Bench of the Apex Court in **Hardeep Singh v. State of Punjab**¹.

3. With these observations, the criminal petition is disposed of.

Miscellaneous petitions pending, if any, shall stand closed.

30th October 2018.

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Dr. B. SIVA SANKARA RAO, J



¹ AIR 2014 SC 1400