

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.10371 of 2018

ORDER :

The petitioners are eight accused mostly common in the three crimes covered by S.C.No.16 of 2013 pending on the file of the IV Additional District Judge, Visakhapatnam, S.C.No.69 of 2014 pending on the file of the II Additional District Judge, Visakhapatnam and S.C.No.70 of 2014 also pending on the file of the II Additional District Judge, Visakhapatnam, for the offence punishable under Section 395 IPC among other. The respective *de facto* complainants are R.1 to R.4 all are residents of Visakhapatnam.

2. A perusal of the F.I.R. shows for the respective individual incidents and the charge sheet filed is on investigation of the F.I.R. mentioned respective investigations and not by consolidation of more than one crime in any of the three charge sheets either in committal of those proceedings after taken cognizance for the offence by the learned Magistrate or in numbering of the Sessions Cases by the Sessions Division under Section 193 Cr.P.C. with reference to the committal orders. A perusal of Section 219 sub-section (1) Cr.P.C. speaks that when a person is accused of more offences than one of the same kind committed within the space of twelve months from the first to the last of such offences, whether in respect of the same person or not, he may be charged with, and tried at one trial for, any number of them not exceeding three. Sub-section (2) speaks offences are of the

same kind when they are punishable with the same amount of punishment under the same section of the Indian Penal Code (45 of 1860) or of any special or local law and the proviso speaks for the offence under section 379 and 380 IPC can be construed as of same kind. All the offences for which the cognizance taken is Section 395 IPC in the three sessions cases. The accused mostly common not even one in the three cases, thereby Section 219 Cr.P.C. squarely applies to the case on hand.

3. Having regard to the above, the criminal petition is allowed by directing the learned IV Additional District Judge, Visakahapatnam, where S.C.No.16 of 2013 is pending, by virtue of this order, transfer the case to the II Additional District Judge, Visakhapatnam, where S.C.Nos.69 and 70 of 2014 are pending to try within the spirit of Section 219 Cr.P.C. in one trial the cases.

Miscellaneous petitions pending, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

14th November 2018.

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