

HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

*HON' BLE Dr. JUSTICE B. SIVA SANKARA RAO

+WRIT PETITION No.42627 OF 2017

%24.04.2018

#Between:

K. Krishna Reddy,

...Petitioner

AND

State of Andhra Pradesh
Rep. by its Principal Secretary,
Home Department,
Amaravathi, Guntur District and 5 others

...Respondents

!Counsel for the Petitioner : Sri Challa Siva Sankar

Counsel for the respondents 1 to 5 : Govt. Pleader for Home

Counsel for the 6th respondent : M.P.V.N.V. Sastri

<Gist :

>Head Note:

? Cases referred:

1. (2013) AIR SCW 220

². (1980) 1 SCC 554

³. (2008) 2 SCC 383



HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

WRIT PETITION No.42627 of 2017

ORDER:

Heard the learned counsel for the petitioner vis-à-vis the learned Govt. Pleader for Home for respondents 1 to 5 and the learned counsel for the R.6-defacto-complainant and perused the prayer in the writ petition with the supporting affidavit averments and other material on record. The prayer in the writ petition which reads as follows:-

'to issue a Writ, order or directions, more particularly one in the nature of Writ of Mandamus, declaring the action of the 3rd respondent in directing the 4th respondent by Memo C.No.C4/ 327/ SC-ST/ 2017, dated 25.11.2017, to file Charge Sheet in Crime No.107/2017, though the 4th respondent after investigation forwarded the final report by C.No.246/ DSP-SCST/KNL/ 2017, dated 04.10.2017, to the 2nd respondent to accord permission to refer the case as 'False' in Crime No.107/2017, registered u/sec.506,509,420 IPC and Section 3(i)®(s) of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'the Act') Amendment Act, 2015, which is illegal, arbitrary, unjust, contrary to law, without jurisdiction and in violation of principles of natural justice and Constitutional rights guaranteed to me under Articles 14,16,and 21 and consequently set aside the Memo C.No.C4/ 327/ SC-ST.2017, issued by the 3rd respondent further direction to the respondents to take steps as per law in FIR No.107/ 2017,on the file of the 5th respondent, as otherwise myself and my family will suffer serious loss and life threat'.

2. The sum and substance of the affidavit averments in support of the prayer in the writ petition are that the petitioner executed a lease deed bearing No.770/ 2014, dated 22.03.2014, in favor of 6th respondent with certain conditions including the rent from the date of execution of the lease deed for Rs.20,000/- p.m. and every 3 years the rent will be exceeded as mentioned in the lease deed and on the same day, the 6th respondent accepted the confirmation from the petitioner and executed a confirmation acceptance by agreeing that in case of failure to pay the monthly rent, the lease deed supra will be cancelled. Basing on the lease deed, the 6th respondent got LOI dated 06.04.2015 to set up retail

outlet of Indian Oil Corporation Limited in Kurnool Town. The 6th respondent borrowed Rs.5,50,000/- from the petitioner to her family necessities and executed a promissory note dated 22.03.2014 in his favor. In spite of demands, since the 6th respondent failed to repay the amount along with interest, the petitioner got issued legal notice dt.29.09.2016, demanding to repay the amount within 7 days and also issued quit notice dt.29.09.2016 for violation of the conditions in the lease deed for an amount of Rs.5,80,000/- for the period of 29 months and also intimated that the tenancy has been terminated from 01.10.2016 and to vacate the scheduled land and hand over the possession to him within one month from the date of receipt of the notice. Since the 6th respondent did not respond, the petitioner filed O.S.No.456 of 2016 on the file of the Senior civil Judge, Kurnool, against the 6th respondent to decree the suit for an amount of Rs.5,59,239/- with interest at 12%p.a. and also filed another suit O.S.No.463 of 2016 to evict the 6th respondent from the plaint scheduled property including the recovery of Rs.5,80,000/- towards arrears of rent from 01.04.2014 to 01.10.2016. The 6th respondent who is a practicing Advocate, threatened the petitioner as she will foist a false cases against him as she belongs to SC community, if he interferes with her possession and insists to pay the rent as per the lease deed and also threatened to withdraw the suits. Being an Advocate, the 6th respondent instead of giving complaint before the 5th respondent-the SHO, Kurnool II Town Police Station(for short, 'the SHO'), gave a false complaint before the R.3-the Superintendent of Police (for short 'the SP') on 01.05.2017 directly who seems to have forwarded the said complaint to the R.4-the Deputy Superintendent of Police (for short, 'the DSP') Kurnool to examine and take necessary action as per law and in turn, the said complaint was forwarded to the

R.5-the SHO, with a direction to register a case and investigate and the same was registered by R.5-the SHO as FIR No.107/ 2017, dated 03.05.2017, u/ sec.506, 509, 420 IPC and Section 3(i)&(s) of the amended Act, 2015, against the petitioner and 3 others and the same was handed over to the R.4-the DSP who is the Competent Authority to investigate the FIR. The 6th respondent did not mention date and time of occurrence in her complaint. During investigation, the R.4-the DSP-Investigating Officer, examined the 6th respondent who stated that offence took place on 30.04.2017 at 9.30p.m. and further stated that on 28.04.2017 she went to police station to complain and the matter is clashing with regard to occurrence of the offence as per the complaint and statement. The R.4-the DSP investigated the matter and examined L.Ws. 1 to 17 and out of whom, only the L.Ws. 2 to 8 who are the planted witnesses to L.W.1, supported the version of L.W.1, but their tower location clearly proves that they were not present at the alleged scene of offence on the date of occurrence. The R.4-the DSP also examined L.W.9-Junior Advocate of 6th respondent but he only stated about the dispute and financial transaction and not with regard to occurrence. The Statements of LW.10 to L.W.17-individual witnesses categorically not supported the version of LW.1. The R.4-the DSP also stated on verification of tower location of the A.2 to 4 but they were also not present at the house and their locations are at Nannoor and in respect of A.4 area shown in Kallur. The R.4-the DSP, after investigation and after obtaining legal opinion from the Special Public Prosecutor and basing on the 161(3) CrPC statements of LWs.1 to 17, opined that the FIR is false. Accordingly, the R.4-DSP submitted his proposals by letter C.No.246/ DSP-SCST/ KNL/ 2017, dated 04.10.2017, and requested the R.2-the Deputy Inspector General of Police(for short, 'the DIG') to accord permission to refer the case as

'false'. In the letter dated 04.10.2017, issued by the R.4-the DSP by Rc.No.327/ C4/ SC-ST/ 2017, dt.03.05.2017, issued by the R.3. The R.3-the SP in his Memo C.No.C/ 4/ 327/ SC-ST/ 2017, dt.25.11.2017, directed the R.4-the DSP-IO to file chargesheet. The R.3-the SP did not have power or jurisdiction to direct the R.4-the DSP to file chargesheet. It is for the R.3-the SP, being the superior officer, to accept or reject the final report submitted by the R.4-IO but cannot compel the R.4 to file charge sheet. It is for the Magistrate u/ sec.173 having power to take cognizance u/ sec.190(1)© or may order further investigation u/ sec.156(3) CrPC. The petitioner is having prima facie case and balance of convenience in his favor. Hence, the Writ Petition.

3. The Chronological events submitted by the learned counsel for the petitioner are as follows:-

Date	Description
22-03-2014	The 6 th respondent entered lease agreement with the petitioner in respect of petitioner's land in Sy.No.278/ 1B an extent of Ac.0.20cents with certain conditions for an amount of Rs.80,60,000/- for a period of 30 years to set up Petrol Outlet, on the same day there is consent agreement between the petitioner and 6 th respondent.
06.04.2015	The 6 th respondent got LOI from the Indian Oil Corporation Limited to set up Retail Outlet within stipulated time otherwise the LOI will be cancelled and withdrawn.
29.09.2016	The petitioner issued legal notice to the 6 th respondent calling upon her to vacate the scheduled land and handover the physical possession of the same to the petitioner on 01.10.2016 as the tenancy has been terminated from 01.10.2016 on the ground 6 th respondent failed to discharge the arrears of lease.
20.10.2016	The petitioner filed O.S.No.456 of 2016 under Order VII Rule 1 of CPC for eviction against the 6 th respondent and arrears of rent.
01.05.2017	The 6 th respondent made false complaint against the petitioner directly to the 3 rd respondent/

Superintendent of Police, Kurnool, same has been forwarded to the 4th respondent/ Deputy Superintendent of Police, Kurnool, directing to examine and take necessary action as per law and also directed to register a case and investigate as per law.

- 03.05.2017 The police registered FIR No.107/ 2017, against the petitioner and others u/ sec.506,509,420IPC and Section 3(i)@s) SC/ ST Amendment Act
- 04.10.2017 The 4th respondent/ Deputy Superintendent of Police, SCST Cell-I, Kurnool investigated the matter elaborately and examined LW.1 to L.W.23 and came to conclusion that the complaint of the 6th respondent is false and to accord permission to refer the case 'FALSE' addressed a letter to the Deputy Inspector General of Police, Kurnool Range, Kurnool.
- 25.11.2017 The 3rd respondent/ Superintendent of Police, Kurnool issued Memo directing the 4th respondent/ Deputy Superintendent of Police, Kurnool, directing to file chargesheet in the concerned Court without jurisdiction/ power.
- 15.12.2017 The petitioner herein aggrieved by the inaction of the 3rd respondent filed W.P.No.42627 of 2017, challenging the Memo of the 3rd respondent dated 25.11.2017, this Hon'ble Court by order dated 15.12.2017, heard both side counsels and the learned Govt. Pleader for Home unable to produce document to show that the 3rd respondent having power to give positive direction to the subordinates. Therefore, this Hon'ble Court granted interim suspension of the Memo dated 25.11.2017, issued by the 3rd respondent. The interim suspension granted by this Hon'ble Court is extended time to time.
- 11.12.2017 The 3rd respondent/ Superintendent of Police, Kurnool, insisted the 4th respondent/ Deputy Superintendent of Police, Kurnool, on receipt of the order dated 15.12.2017 in WP No.42627 of 2017, to file chargesheet with an anti date before VI Additional District & Sessions Judge, Kurnool.
- 19.03.2018 The petitioner on coming to know that the chargesheet dated 11.12.2017, which is anti dated filed before the VI Additional District Judge, Kurnool, after this Hon'ble Court granted interim suspension against the Memo dated 25.11.2017, as per counter affidavit of 3rd respondent with false affidavit including the vacate, the petitioner filed WP No.9049 of 2018, challenging the charge sheet.
- 27.03.2018 This Hon'ble Court in WP No.9049 of 2018, on the allegations of the petitioner leveled against the respondents 3 and 4 who filed the chargesheet with an anti date violating the

orders in W.P.No.42627 of 2017, dated 15.12.2017, called for the record from the VI Additional District & Sessions Judge, Kurnool, with regard to filing of the chargesheet before the concerned Court on what date.

28.03.2018 The learned VI Additional District & Sessions Judge, Kurnool, by report No.688/2018, dated 28.03.2018, submitted to this Hon'ble Court in W.P.No.9049 of 2018, intimating that the Deputy Superintendent of Police, SCST Cell-I, Kurnool as signed in Charge sheet on 11.12.2017 and presented before the VI Additional District & Sessions Judge, Kurnool on 21.12.2017, that itself shows the respondents 3 and 4 who colluded with the 6th respondent and disobeyed the orders of this Hon'ble Court in W.P.No.42627 of 2017, dated 15.12.2017.

06.04.2018 This Hon'ble Court after hearing the learned Govt. Pleader for Home, who failed to submit the provisions of law to show that the 3rd respondent having power to direct the 4th respondent/IO to file charge sheet in the concerned Court and granted interim stay in respect of Crime No.107/2017, pending on the file of the VI Additional District & Sessions Judge, Kurnool

The petitioner respectfully submitted that the 3rd respondent being a superior officer of the 4th respondent can he give positive direction to the subordinate to do particular thing. Putting question petitioner himself can the 3rd respondent direct the 4th respondent where the charge sheet is intended to file in particular time to file final report making false the said crime? At the same time, the 3rd respondent did not have power or jurisdiction to direct the 4th respondent to file charge sheet where he intended to file final report that case is false?

4. This Court another Bench on 15.12.2017 before admission of the writ petition passed the following order:-

"At request of Assistant Government Pleader, post on 18.01.2018.

The petitioner challenges the jurisdiction of 3rd respondent in directing the Investigating Officer to file a charge sheet instead of leaving discretion to the Investigating Officer.

Further, the communication impugned in the writ petition issues positive direction for filing a charge sheet. If the same is carried out, the writ prayer becomes ineffective.

Hence, there shall be interim suspension of Memo dated 25.11.2017, till the next date of hearing."

and the same is in force from its extension from time to time and from the above, the core of the issue raised in the writ petition is lack of jurisdiction of the Superior Police Officer to direct the Investigating Officer in relation to the investigation to file report in a particular form from his reappraisal of the investigation material.

5. For that, before coming to the further discussion of facts, it is relevant to refer some of the provisions in the Act, 1989 amended by Act 1 of 2016 and Rules made under the Act in T.S.R.No.316(E), Ministry of Welfare, dt.31.03.1995 published by gazette of India Extra part-II Section 3(i) referring to the powers conferred by Section 23 of the Act 33/ 1989 supra.

6. Section 20 of the Act speaks that '*Save as otherwise provided in this Act, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any custom or usage or any instrument having effect by virtue of any such law*'. So far as the powers of the Special Court concerned, there is no necessity of any discussion of the position prior and subsequent to the amended Act from requirement of committal earlier or now not as the case may be and thus it no way requires discussion.

7. Sections 4 and 5 CrPC from its combined reading speak that all offences under any other law other than IPC shall be investigated, enquired into, tried and otherwise dealt with according to the same provisions of the CrPC but subject to any enactment for time being in force regulating the manner or place of investigating, inquiring into, trying or otherwise dealing with such offences and nothing contained in this Code shall, in the absence of a special provisions to the contrary, affect any special or local law for time being in force, or any special

jurisdiction or power conferred, or any special form of procedure prescribed, by any other law for the time being in force.

8. Before coming to the relevant CrPC provisions, regarding the investigation in answer issue raised in the writ petition, particularly with reference to Sections 4 and 5 of the CrPC and Section 20 of the Act 33/ 89, it is also necessary to refer Rule 7 of the Rules framed in 1995 supra, which speaks as *'an offence committed under the Act shall be investigated by a Police Officer not below the rank of Deputy Superintendent of Police. The Investigating Officer, shall be appointed by the State Government Director General of Police/ Superintendent of Police after taking into account his past experience, sense of ability and justice to perceive the implications of the case and investigate it along with right lines within the shortest possible time. (2) The Investigating Officer so appointed under sub-rule(1) shall complete the investigation on top priority within thirty days and submit the report to the Superintendent of Police, who in turn will immediately forward the report to the Director General of Police of the State Government. (3) The Home Secretary and the Social Welfare Secretary to the State Government, Director of Prosecution/the Officer in-Charge of Prosecutions and the Director General of Police shall review by the end of every quarter the position of all investigations done by the Investigating Officer.*

9. From this Rule-7, it only speaks a review of every investigation of every quarter and not any power of the Superior Police Officers like Superintendent of Police or the Director General of Police, as the case may be, who are the Superiors to the designated Investigating Officers of the cadre of Deputy Superintendent of Police in relation to the investigation of the offences in any crime registered under the provisions of the Act 33 of 89. Thereby for the powers of the Investigating Officer

save that is not specifically provided in the Rules supra of 1995 one has to fall back to the provisions of CrPC(.....).

10. Right from the registration of the FIR of cognizable offence u/ secs.154 to 156 CrPC and a non-cognizable offence, direction of the Court u/ sec.155 CrPC besides the requirement of the Case Diary to be maintained from that stage by every Police Officer making any investigation of entering the day-to-day progress with submission of report to the Magistrate Court concerned Sections 156 to 158 to be read with Section 173 CrPC are relevant, no doubt to be read with section 36 CrPC. Now coming to these Sections, Section 157 sub Section-1 speaks as *“if, from information received or otherwise, an officer in charge of a police station has reason to suspect the commission of an offence which he is empowered u/ sec.156 to investigate, he shall forthwith send a report of the same to a Magistrate empowered to take cognizance of such offence upon a police report, shall proceed in person, or shall depute one of his subordinate officers not being below such rank as the State Government may, by general or special order, prescribe in this behalf to proceed, to the spot, to investigate the facts and circumstances of the case, and, if necessary, to take measures for the discovery and arrest of the offender.....”*. Now coming to Section 173CrPC it speaks from sub section-1 as *“Every investigation under this Chapter shall be completed without unnecessary delay”*, from the very title of ‘Report of police officer on completion of investigation’.

11. Thus, the distinction is to be noted from the combined reading of Section 157(1) with its title and sub-Section-1 of Section 173; so far as Section 157 speaks of reports to mean the reports of day-to-day progress to be maintained by entering in the Case Diary u/ sec.172 CrPC known as Part-1 Case Diary that to be submitted to the Court in the form

of reports and thus after submission of such reports of day-to-day progress, final report with sum and substance to be submitted u/ sec.173 Cr.P.C. that is the reason how a final report is to be submitted stated in Section 173 sub Sections 2 to 5 which are now not required to be reproduced. Here, thus keeping in view the distinction between the reports and final report as laid down supra if one reads Section 173 sub Section 3, it speaks that where a superior officer of police has been appointed u/ sec.158, the report shall, in any case in which the State Government by general or special order so directs, be submitted through that officer, and he may, pending orders of the Magistrate, direct the officer in charge of police station to make further investigation. No doubt from reading of Section 173 sub Section 3, the superior officer's power is to direct further investigation, leave about Magistrate's power to accept or reject the report or direct further enquiry as contemplated u/ sec.159 and leave about 202 sub section 2. Section 173 sub Section 8 speaks that nothing in this Section shall be deemed to preclude further investigation in respect of the offence after report under sub section 2 has been forwarded to the Magistrate (final report) and where upon such investigation, the officer in charge of police station obtains the further evidence, oral or documentary, he may forward to the Magistrate further report or reports regarding such evidence in the form prescribed, and the provisions of sub Sections 2 to 6 shall, as far as may be, applied in relation to such report or reports as they applied in relation to report forwarded under sub section 2. Here for the purpose of deciding the issue covered by the writ petition, there is no necessity but for to refer to draw the distinction between the power of the superior police officer for further investigation contemplated by Section 173 sub section 3 and power of the Magistrate for further investigation contemplated by

section 173 read with the other provisions referred supra and the power of further investigation even after filing of final report u/ sec.173(8) by the Investigating Officer concerned. The law is very clearly laid down by the Apex Court in Vinay Tyagi vs Irshad Ali @Deepak¹ that a Magistrate has no power to order to re-investigate a case, but for by the constitutional Courts. Only the further investigation, the Magistrate may direct at best leave about power of the police u/ sec.173 sub Sections 8 supra. Needless to say in the case of further investigation from one final report filed u/ sec.173 sub Sections 2 to 6 before the Court by the Investigating Officer an intimation to the Court formally is required though not directly a permission.

12. From this coming to Section 36 CrPC which speaks on the powers of the superior officer of police that the police officer superior in rank to the officer in charge of a police station may exercise the same powers, throughout the local area to which they are appointed, as may be exercised by such officer within the limits of his station.

13. On the scope of the power of the superior officer to exercise the same powers of the Investigating Officer, law is fairly settled at least from the expression of the Apex Court in State of Bihar Vs. J.A.C. Saldanha² that is also quoted with approval in subsequent expression in State of AP Vs. A.S. Peter³ by referring to Section 36 with Section 173 sub Sections 3 and 8 CrPC and the very wording therein is very clear of the superior officer may exercise same powers of the Investigating Officer.

¹ (2013) AIR SCW 220

² (1980) 1 SCC 554

³ (2008) 2 SCC 383

14. From this, coming to the facts before coming to Section 178 sub Section 2 CrPC, the DSP-the IO in the case on hand in Cr.No.107/ 2017, addressed to the DIG of Police, Kurnool, the superior officer referred in Rule 7 of the Rules of 1995 has to be designated from the provisions of Cr.P.C. also supra mentioned that after investigation, the Spl.Public Prosecutor of the special Court at Kurnool issued legal opinion stating that as seen from the statements of the L.Ws. 1 to 17, it is not a fit case to charge since there is no substantial evidence to prove the guilt of the alleged accused in this case and further the Investigating Officer is advised to refer the case as false with due consultation of superior officers. It refers to the RC No.327 dt.03.05.2017 of the SP Kurnool from the DSP request to accord permission to refer the case as false in filing the final report to that effect u/ sec.173 CrPC what the learned Spl. Public Prosecutor mentioned reproduced is there is no substantial evidence to prove the guilt. In fact, the substantial evidence arise during trial only but what is to be considered is prima facie material of accusation for taking cognizance and framing of the charge if any and in the substantial evidence leave about no necessity of assessment of the case ends in acquittal or conviction for such an opinion given by the so called Spl.Public Prosecutor that is referred in referring the case as false. It is on perusal of the said report running in 5 pages referred in the writ petition as Ex.P10, the R.3-the SP whose reference mentioned in the said DSP report to the DIG of Police, on 04.10.2017, by the letter to the SP, dt.25.11.2017 referred as Ex.P.11 in the Writ Petition mentioned that in the reference cited by the DSP supra, the proposals submitted by him to refer the case as 'false' and the memo further contained that on perusal of the CD file (as provided by Section 172 CrPC), the lapses that were noticed in the section 161 (3)

CPC statements, the L.Ws.2 to 8 are supporting the version of the FIR and statements of L.W.1(Defacto-complainant) on the basis of the evidence of the complainant and 7 other witnesses loose reference as evidence (in stead of statement containing the facts) are in support of the FIR, the DSP, SC/ ST Cell-1 Kurnool, was directed to file charge sheet in the concerned Court. Hence returned the C.D. file to carryout the instructions and report compliance and asked to acknowledge the receipt of Memo.

15. It is the same now impugned in the contention of the writ petitioner of R.3-the SP is superior police officer including u/ sec.36 CrPC in his exercising the same powers as that of the Investigating Officer may at best conduct further investigation or verify the investigation and file chargesheet and has no power to direct the R.4-DSP to file chargesheet. In fact Section 36 CrPC clearly speaks the superior police officer may exercise the same powers as may be exercised by such officer within the limits of his police station. Here, it is to be kept in mind the distinction between the final report and the reports as referred in Section 173 and 157 CrPC respectively. It is the legal opinion obtained after completion of the investigation by R.4-the DSP as the Special Investigating Officer and from the legal opinion of the Special Public Prosecutor, sought permission to refer the case as 'false' and the superior police officer having verified u/ sec.36CrPC directed to file chargesheet from the prima facie material and its verification, it cannot be called verification as it is not an investigation much less it can be called as re-investigation. It is only verification as part of the superior officer's power of investigation under that guise can he direct the DSP to file chargesheet rather than himself filing if any as the issue raised concerned, from what Section 173 sub-section 3 also asked to be read. In

fact, it is here relevant to refer what Section 158 CrPC particularly sub Section 2 of it speaks. Section 158CrPC speaks of “*Report how submitted-1) Every report sent to a Magistrate under Section157 shall, if the State Government so directs, be submitted through such superior officer of Police as the State Government, by general or special order, appoints in this behalf*”. Before coming to sub-Section 2 of Section 158 CrPC, here on the factual matrix, the R.4-DSP who is the Investigating Officer to file final report before the Magistrate forwarded of the opinion as to refer the report as false can be filed or not in his addressing to the R.2- the DIG of Police, Kurnool Range and the R.3-the SP, Kurnool by also referring to one of the references from the Superior Police Officer-R.3-the SP of Police, Kurnool.

16. From this, leave about no more discussion is required of Rule 7 of the Rules, 1995, the AP Police Manual General Instructions, coming to Sub-Section 2 of Section 158 CrPC, it clearly speaks the duties and powers of such superior officers that such superior officer may give such instructions to the officer in charge of police station as he thinks fit, and shall after recording such instructions of such report, transmit the same without delay to the Magistrate. It is not the issue of the second limb of Section 158(2) of the Superior Officer has to transmit the same without delay to the Magistrate or pursuant to the superior officers instructions, the Investigating Officer has to transmit. It is needless to say the superior officer also can transmit within his power u/ sec.36 but for to say from the combined reading of 36 with 173 CrPC of to instruct the Investigating Officer himself to transmit.

17. Now from sub Section 2 first limb of Section 158 CrPC referred supra concerned, once the superior police officer may give such instructions to the officer in charge of police station as he thinks fit,

that instructions enclosed from the verification to the CD of existence of prima facie material to file charge sheet rather than file referred report, thereby there is nothing to find fault with the impugned order of the R.3-the SP instructing the R.4-the DSP of Police to file charge sheet from the existence of the investigation material to show prima facie accusation to take cognizance by the Special Court .

18. Having regard to the above and with these observations, the Writ Petition is disposed of rather than dismissal, however, it will no way prejudice the right of the accused after entered appearance from the summoning or on warrant, as the case may be, at the post-cognizance stage from supply of copies as contemplated by Section 207/ 208CrPC, to impugn said cognizance order by filing writ petition or quash petition u/ s.227 of the Constitution of India or 282 CrPC as the case may be respectively or before the same Court for the procedure provides for hearing before the charges to file application for discharge if at all and argue the case of no material to take cognizance or to frame charge as the case may be.

19. Consequently, miscellaneous petitions, if any, pending in this writ petition, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:24.04.2018

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