

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Criminal Petition No.160 of 2019

ORDER:

The petitioner is A3 in Cr.No.123 of 2018 of SHO, Saidabad, registered for the offences punishable under Sections 420 and 495 IPC from the report of the 2nd respondent/*de facto* complainant dated 07.04.2018. The petitioner is seeking to quash the crime proceedings pending against him supra. The 2nd respondent/*de facto* complainant even served failed to attend, taken as heard.

2. Heard counsel for petitioner and learned Public Prosecutor representing the 1st respondent-State and perused the FIR and also drawn attention of the court from the observations in the bail order dated 31.01.2019 by learned VII Addl.Metropolitan Sessions Judge, Hyderabad, in CrI.M.P.No.136/2019 in granting anticipatory bail to the petitioner.

3. The order of contentions from the grounds rather than in the petition vis-à-vis oral submissions of the petitioner are that, on the face value of the FIR, there are no ingredients and the offences under Sections 420 and 495 IPC against the petitioner, he drawn the attention of the Court from the bail order of the VII Addl.Metropolitan Sessions Judge, Hyderabad, supra, particularly in page 2, para 8, which reads as follows:

“ On perusal of the C.D file, A1 and A2 were arrested and remanded to judicial custody on 07.04.2018 and they were enlarged on bail. C.D file goes to show that the prosecution has examined nine (9) witnesses and no specific allegations are leveled against the petitioner, as the investigation is at the fag end, the question of influencing the witnesses by the petitioner does not

arise. Hence, I hold that the petitioner is entitled for discretionary relief of anticipatory bail.”

The learned Public Prosecutor in contra to it submits that from the very report of the defacto-complainant *vis-a vis* statement of her, this petitioner also with pretence is causing A1 came along with others and thus they are all privy to the cheating and the investigation so far done as per the police instructions in opposing the petition discloses his privy also.

Having regard to the above, the quash petition is dismissed without prejudice to the available defence to impugn police final report with Part-II case material to consider if at all there is no sustainable accusation on filing final report if at all as charge sheet.

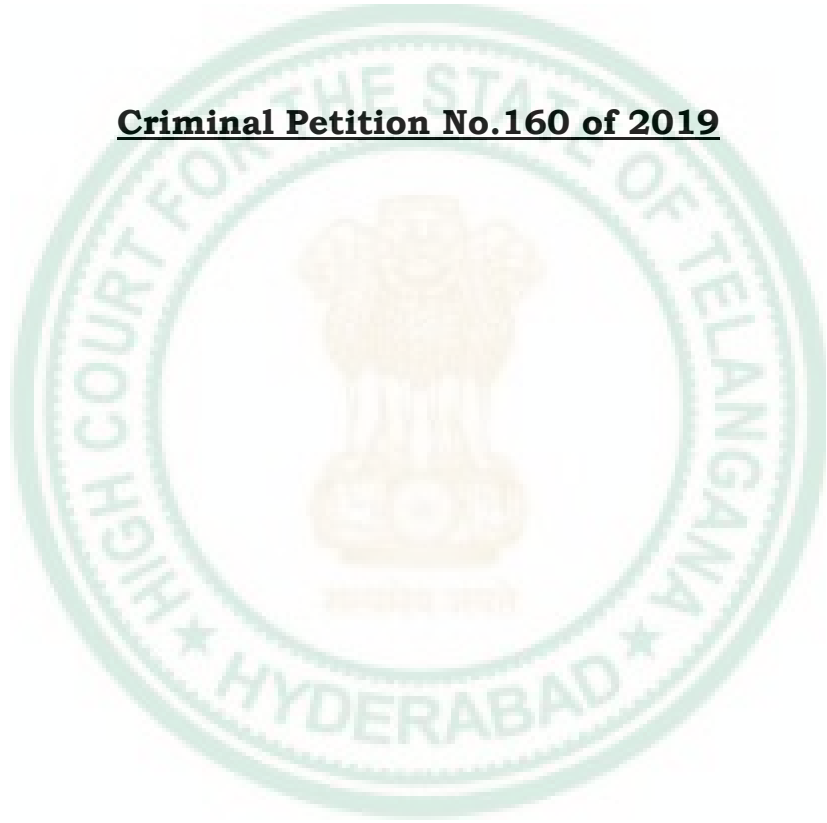
Dr. B. SIVA SANKARA RAO, J

Dt.19.02.2019

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19th February, 2019

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