

HONOURABLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No. 13020 of 2015

ORDER :

This Criminal Petition is filed by the petitioner/defacto complainant under section 482 of Cr.P.C., seeking to quash the proceedings dated 04-12-2014 passed in Crl.MP.No. 691 of 2014 in C.C.No. 223 of 2011 by the Judicial Magistrate of First Class, Tandur, Ranga Reddy district.

2. The petitioner herein is the defacto complainant in C.C. No. 223 of 2011 pending on the file of the Court of the Judicial Magistrate of First Class, Tandur, Ranga Reddy district, taken cognizance for an offence punishable under section 420 of IPC from the Police final report out-come of Crime No. 226 of 2008, dated 23/12/2008 of the petitioner/defacto complainant against the respondent No.2/Accused. After the Calendar Case was numbered from taken cognizance of the offence by the trial Judge and after hearing on charges and finalization of the charges and after examination from denial of the accusation, the parties put to trial, Un-disputably, PW-1 examined only in chief in-part and coming for continuation of chief and cross-examination.

3. Earlier the defacto-complainant filed Crl.MP.No. 216 of 2014 to receive some documents that was allowed by order dated 14-08-2008 by the Court. At that time, no such present application was filed to receive the documents. It is one of the

submission that was allegedly not considered by the impugned order of the lower court that the application under Right to Information Act made to grant certified copy of the report dated 21/06/2014 to submit said report dated 10/12/2012 with enclosures and that was submitted on the even date which is more than 1 ½ month prior to the order dated 14/08/2014 in Crl.MP. No. 216 of 2014 though it is the submission of the counsel for the petitioner/defacto complainant that they mentioned in the petition in the impugned order covered by Crl.MP.No. 691 of 2014 that they received the certified copies only in September, 2014, which is subsequent to the order passed in Crl.MP.No. 216 of 2014 dated 14/08/2014, there is no such basis much-less any endorsement or acknowledgement filed to give any credence to the said version. To that extent, there is nothing to interfere with the impugned order of the lower court in arriving to the said conclusion and also from the reason, the application covered by impugned order was filed on 03/9/2014, about 15 days after the said order in Crl.MP.No. 216 of 2014, dated 14/08/2014. The fact remains that Crl.MP.No. 216 of 2014 petition was filed on 28/2/2014. By then these documents in relation to Right to Information Act covered by certified copies supra shown issued on 21-6-2014 not available to mention in that Crl.MP.No. 216 of 2014 but for supposed to file immediately thereafter.

4. Having regard to the above that itself is not a ground in view of the factual matrix to dismiss the petition but for to consider whether these documents are essential for a just decision of the case for the court and whether it comes under the second limb of Section 311 of Cr.P.C. to permit any evidence in relation to these documents that is not considered at all in the impugned dismissal of the court saying that there is no proper or genuine reason assigned as to why documents ought to have received in the present petition not filed earlier and the petition is devoid of merit.

5. The main contention is the documents were forged by using of the fake stamp and these documents including as to the date of stamp purchase and with regard to the Sub-Registrar record. Once crucial to unearth the truth in the voyage of trial, definitely once it is aspired for a just decision of a case of the lis before the trial court, it should have been at least on heavy costs permitted rather than dismissal as the case may comes under the second limb of Section 311 of Cr.P.C. read with section 165 of the Indian Evidence Act.

6. Having regard to the above, the dismissal order is set aside, petition is allowed, subject to Rs.5,000/- [Rs. Five Thousand only] costs payable by the defacto-complainant to the counsel for the accused before the lower court within one week from the date of receipt of a copy of this order, failing which the order of the lower court holds good for all purposes.

7. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

Dr. JUSTICE B. SIVA SANKARA RAO, J.

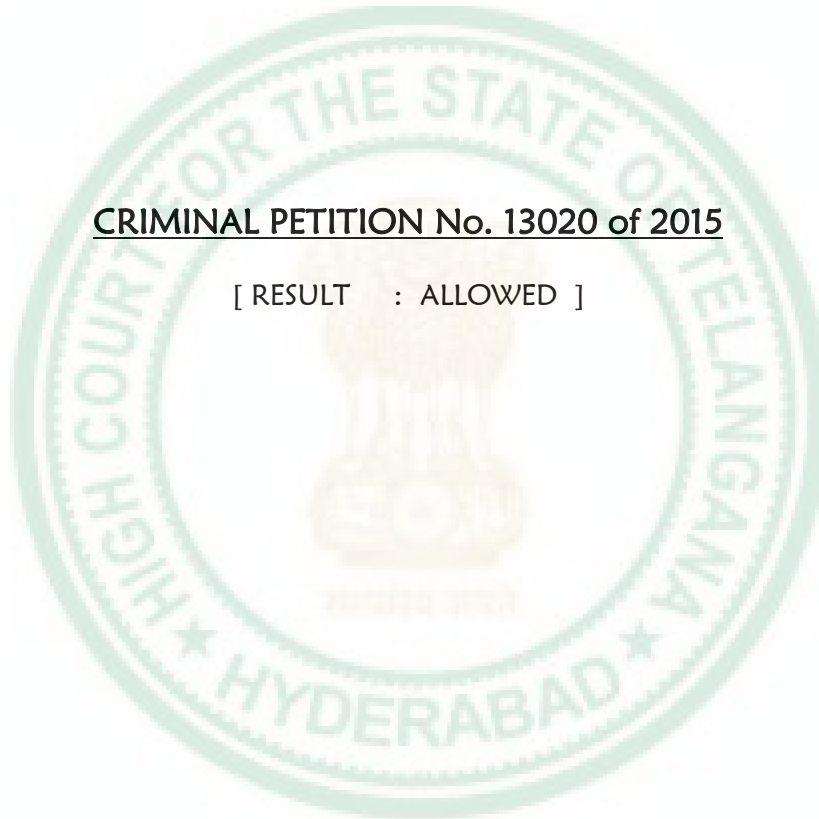
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[RESULT : ALLOWED]



Circulation No:
Date : 14-02-2019
Court Master : I s L