

THE HONOURABLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.13651 of 2018

ORDER:

1) Heard counsel for the petitioner/accused No.1 in C.C.No.759 of 2016 pending on the file of the XX Metropolitan Magistrate Court, Malkajgiri, Cyberabad, which is an outcome of the report of the second respondent in registration of Crime No.504 of 2016, dated 09.08.2016, by Kushaiguda Police Station for the offences punishable under Sections 498-A and 323 IPC and the police after investigation by examination of the *de facto* complainant among others citing LWs.1 to 7 filed the final report on 03.09.2016 from which the learned Magistrate taken cognizance for the offences supra against the petitioner as accused No.1 and his father as accused No.2 respectively, same is under impugnmment.

2) Heard counsel for the petitioner and notice served on the second respondent failed to attend and taken as heard and also heard the Public Prosecutor representing the first respondent-State and perused the material on record.

3) One of the main contentions are that most of the allegations are in abroad and the prosecution is not sustainable, leave about sanction to prosecute under Section 188 Cr.P.C. even mandatory thereby the cognizance order of the learned Magistrate is un-sustainable. Infact a perusal of

the ingredients of Section 188 Cr.P.C. indicates that there is no bar of cognizance, but for post cognizance, enquiry/trial. Once such is the case, it is premature to go into the requirement of sanction of post cognizance enquiry/trial as in the meantime if at all for any enquiry as to the framing of charges to be undertaken by the trial Court that requirement of sanction under Section 188 Cr.P.C. arises. With these observations by left open of such defence and to raise such objection, the Criminal Petition is disposed of without going into the other merits that can be urged in the course of hearing before charges subject to such sanction/leave of the Central Government contemplated by Section 188 Cr.P.C.

Miscellaneous petitions pending, if any, shall stand closed.

23rd January, 2019
vhb/gkv

Dr. B. SIVA SANKARA RAO, J