

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

+ CRIMINAL PETITION No.8193 of 2015

%22.09.2015

T.Vinil S/o Srinivasulu

..... Petitioner/A.4

AND

The State of A.P., rep.by Inspector
of police and another.

.....Respondents

! Counsel for the petitioner: Sri V.Nitesh

^ Counsel for the respondent No.1: Public Prosecutor (AP)

< Gist:

> Head Note:

? Cases referred:

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD

**FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

CRIMINAL PETITION No.8193 of 2015

Between:

T.Vinil S/o Srinivasulu. ...Petitioner/A.4

AND

1. The State of A.P., rep. by Inspector of Police
and another. ...Respondents.

Judgment Pronounced on : 22.09.2015

Hon'ble Dr. JUSTICE B. SIVA SANKARA RAO

1. Whether Reporters of local
newspapers may be allowed to
see the Judgments? :

2. Whether the copies of judgment
may be marked to Law Reporters/
Journals. :

3. Whether his Lordship wish to see
the fair copy of the Judgment? :

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

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CRIMINAL PETITION No.8193 of 2015

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ORDER:

This Criminal Petition is filed by the petitioner/A.4 under Section 482 Cr.P.C seeking to quash the proceedings in C.C.No.268 of 2015 on the file of Judicial Magistrate of First Class, Nandyal, Krunool District, where the learned Magistrate has taken the cognizance of the offences punishable under Sections 498-A, 313, 323 and 506 IPC and sections 3 and 4 of Dowry Prohibition Act, which is outcome of the final report of Nandyal II Town Police Station in Crime No.62 of 2015 based on the report of the 2nd respondent/*de facto* complainant.

2. Heard learned counsel for the petitioner/A.4 and also the 1st respondent represented by the Public Prosecutor, before admission and before issuing notice to the 2nd respondent/*de facto* complainant and perused the material on record.

3. A perusal of the material on record, the material falls short of this Court even to admit the application under Section 482 Cr.P.C to quash the proceedings but for giving liberty to the petitioner to file an application under Section 239 Cr.P.C. before the learned Magistrate concerned, if there are no grounds to frame charges. In fact,

cognizance order of the learned Magistrate is not before this Court to say whether cognizance of the offence under 312 IPC is taken, which is triable by learned Magistrate or under Section 313 IPC, which is triable by Court of Sessions. If cognizance is taken under Section 313 IPC, the learned Magistrate cannot allot the Calendar Case number and even if calendar case number is given, by virtue of this order to cancel the calendar case number and allot P.R.C. number to commit the case to the Court of Sessions along with the application for discharge filed by the petitioner/A.4, if any, and to consider the same under Section 227 Cr.P.C. before the Court of Sessions.

4. After committal to the Court of Sessions under Section 209 Cr.P.C., the Session Court has to take cognizance under Section 193 Cr.P.C. and to hear and in case of hearing before the charges under Section 226 to 228 Cr.P.C., pass appropriate order. Any such order being passed, further remedy is left open to the petitioner. Needless to say, the petitioners/A.4 can move an application under Rule 37 of Criminal Rules of Practice before the learned Magistrate, if it is a calendar case, on committal to the Court of Sessions, before the concerned Court to pass orders permitting the same with necessary conditions of personal appearance as and when required, which is the common procedure, in such event the court has to follow.

5. With the above observations, the Criminal petition is disposed of. Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

Dr. B. SIVA SANKARA RAO, J

SEPTEMBER 22, 2015

Note:

L.R. copy to be marked.

(B/o)

YVL

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.8193 of 2015

Date: 22.09.2015

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