

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

TUESDAY, THE EIGHTEENTH DAY OF JULY
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HON'BLE SMT. JUSTICE G. ANUPAMA CHAKRAVARTHY

CRIMINAL PETITION No: 5364 OF 2023

Between:

Bhukya Suresh Nayak, S/o. late Niramal Nayak, Age- 35 years, Occ- Agriculture & Business, R/o. H.No.5-34, Warangal X-Road, Khammam Rural Mandal, Khammam District.

...Petitioner/Accused

AND

1. The State of Telangana, Rep. by its Public Prosecutor, High Court of Judicature at Hyderabad Through Khammam Rural Police Station, Khammam District.

...Respondent

2. Cherukupalli Kataiah, S/o. Not known to Petitioner, Age- 40 years, Occ- working as police Constable, PC.No.2230 of Khammam Rural Police Station, Khammam Rural, Khammam District.

...Respondent/ de-facto Complainant

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to call for the records in connection with the case in CC.No.735 of 2023 on the file of the Hon'ble II Additional Judicial First Class Magistrate At Khammam, Khammam District, by taking cognizance in mechanical manner and issued summons, and to quash the same by allowing the above petition in respect.

I.A. NO: 1 OF 2023

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to Stay all further proceedings in connection with the CC.No.735 of 2023 on the file of the Hon'ble II Additional Judicial First Class Magistrate At Khammam, Khammam District, including personal appearance of the Petitioner/Accused, pending disposal of the above criminal petition.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri D. KISHORE KUMAR, Advocate for the Petitioner and the Sri S. GANESH, Assistant Public Prosecutor on behalf of the Respondent No.1 and None Appeared for the Respondent No.2

The Court made the following: ORDER

HON'BLE SMT. JUSTICE G. ANUPAMA CHAKRAVARTHY

CRIMINAL PETITION No.5364 OF 2023

ORDER:

This Criminal Petition is filed under Section 482 of the Code of Criminal Procedure (for short, 'Cr.P.C.') by the petitioner/accused to quash the proceedings in C.C.No.735 of 2023 on the file of the II Additonal Judicial First Class Magistrate, at Khammam, Khammam District.

2. Heard learned counsel for the petitioner and learned Assistant Public Prosecutor for respondent No.1 - State. Perused the record.

3. Learned counsel for the petitioner contended that the petitioner is arrayed as sole accused in Crime No.460/2022 of Khammam Rural Police Station registered for the offence punishable under Section 353 of the Indian Penal Code (for short, 'IPC'). He further contended that the police after due investigation, filed charge sheet and the learned Magistrate has mechanically taken cognizance of the case for the offence under Section 353 of IPC, without assigning any proper reasons.

4. On a perusal of the charge sheet, it is evident that the charge sheet is filed by the Sub-Inspector of Police, Khammam

Rural Police Station and the learned Magistrate has made a stamp of taking cognizance and simply signed the same on 19.04.2023.

5. It is pertinent to state that in spite of the circulars issued by this Court from time to time directing the learned Magistrates to pass judicial orders while taking cognizance, the learned II Additional Judicial First Class Magistrate, Khammam, without applying the judicial mind, has taken cognizance of the case, which is against the circulars of this Court. Therefore, it is a fit case to set aside the cognizance order, dated 19.04.2023, passed by the learned II Additional Judicial First Class Magistrate at Khammam, Khammam District.

6. Accordingly, the cognizance order, dated 19.04.2023 passed by the learned II Additional Judicial First Class Magistrate, Khammam is set aside and the matter is remanded to the learned Magistrate directing the learned Magistrate to apply his judicial mind, while taking cognizance.

7. Consequently, the proceedings against the petitioner in C.C.No.735 of 2023 on the file of learned II Additional Judicial First Class Magistrate at Khammam, Khammam District, are hereby set aside.

8. Accordingly, the Criminal Petition is allowed.

Pending miscellaneous applications, if any, shall stand closed.

//TRUE COPY//

Sd/- T. JAYASREE
ASSISTANT REGISTRAR



SECTION OFFICER

To,

1. The II Additional Judicial First Class Magistrate At Khammam, Khammam District.
2. The Station House Officer, Khammam Rural Police Station, Khammam District.
3. Two CCs to the Public Prosecutor, High Court for the State of Telangana at Hyderabad.(OUT)
4. One CC to SRI D. KISHORE KUMAR, Advocate [OPUC]
5. Two CD Copies

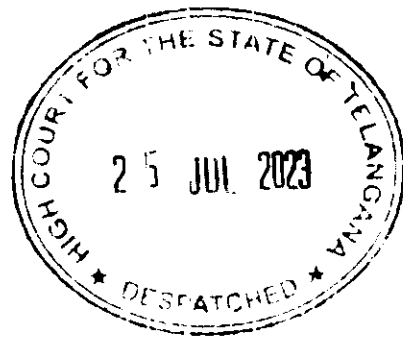
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HIGH COURT

GAC,J

DATED:18/07/2023



ORDER

CRLP.No.5364 of 2023

THE CRIMINAL PETITION
IS ALLOWED

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RMA
25/7/2023