

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELENGANA AND THE STATE OF ANDHARA PRADESH**

CRIMINAL PETITION Nos.11255 of 2017 & 8379 of 2018

Crl.P.No.11255 of 2017

Between:

Yallaturu Siva Sankar Reddy and another

.....Petitioners

and

The State of Andhra Pradesh rep. by its Public Prosecutor and
another

.....Respondents

Crl.P.No.8379 of 2018

Between:

Yallaturu Eswar Reddy

.....Petitioner

and

The State of Andhra Pradesh rep. by its Public Prosecutor and
another

.....Respondents

Date of Judgment pronounced on : 31-12-2018

HONOURABLE DR. JUSTICE B. SIVA SANKARA RAO

1. Whether Reporters of Local newspapers : Yes/No
May be allowed to see the judgments?
2. Whether the copies of judgment may be marked : Yes/No
to Law Reporters/Journals:
3. Whether The Lordship wishes to see the fair copy : Yes/No
Of the Judgment?

*** HONOURABLE DR. JUSTICE B. SIVA SANKARA RAO**
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< GIST:

> HEAD NOTE:

! Counsel for the petitioners : Sri VR Reddy Kovvuri

^ Counsel for the respondents : Learned Public Prosecutor

? Cases referred

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO**CRIMINAL PETITION Nos.11255 of 2017 & 8379 of 2018****COMMON ORDER:**

The accused Nos.9 & 13 by names Y.Siva Sankar Reddy and P.Nagi Reddy in SC.No.25 of 2005 on the file of Additional Assistant Sessions Judge (FTC) Badvel, YSR Kadapa District are petitioners in Crl.P.No.11255 of 2017 and accused No.8 by name Y.Eswar Reddy in the said SC is petitioner in Crl.P.No.8379 of 2018, which is outcome of crime No.16 of 2000 of SHO, B.Mattam Police Station covered by original PRC.No.35 of 2000, against in all 13 accused filed the two petitions seeking to quash the said SC proceedings pending against them.

2. The contentions are that the 2nd respondent-defacto complainant, U.Rami Reddy, submitted a report to B.Mattam PS registered as crime No.16 of 2000 for the offences punishable under Sections 147, 148, 324, 326, 307 r/w 149 IPC and the police after investigation filed the charge sheet against 13 accused in PRC.No.35 of 2000 and after the case was committed to the Court of Sessions SC.No.107 of 2001 was allotted against all the accused. It was while so pending before the learned Additional Assistant Sessions Judge, as accused Nos.8, 9 & 13 out of the 13 accused were shown in abscondence the case against them was spilt up from SC.No.107 of 2001 by allotting supra SC.No.25 of 2005. It was while so pending against others of SC.No.107 of 2001

after framing of charges A.3 was in abscondence and the case against him was spilt up and allotted SC.No.135 of 2005. Thus in SC.No.107 of 2001 other than A.3 of SC.No.135 of 2005, accused Nos.8, 9 & 13 of SC.No.25 of 2005 covered by common PRC.No.35 of 2000, the SC.No.107 of 2001 was proceeded against accused Nos.1, 2, 4 to 7, 10 to 12. It is to say said SC.No.107 of 2001 after trial was ended in conviction vide judgment of the Additional Assistant Sessions Judge (FTC) Badvel, viz., accused Nos.1, 2, 4 to 7, 10 to 12 are sentenced to suffer RI for one year with fine of Rs.100/- each for the offence under Section 148 IPC with default sentence of one week each; accused Nos.1, 2 & 10 are sentenced to suffer RI for six months with fine of Rs.100/- each for the offence under Section 326 IPC with default sentence of one week each; accused Nos.4 to 7, 11 & 12 are sentenced to suffer RI for six months with fine of Rs.100/- each for the offence under Section 326 r/w 149 IPC with default sentence of one week each; accused Nos.1, 5 & 6 are sentenced to suffer RI for six months with fine of Rs.100/- each for the offence under Section 324 IPC with default sentence of one week each; accused Nos.2, 4, 7, 10 to 12 are sentenced to suffer RI for six months with fine of Rs.100/- each for the offence under Section 324 r/w 149 IPC with default sentence of one week each; accused Nos.1, 2, 5, 6 & 10 are sentenced to suffer RI for one year with fine of Rs.100/- each for the offence under Section 307 IPC with default sentence of one

week each and accused Nos.4, 7, 11 & 12 are sentenced to suffer RI for one year with fine of Rs.100/- each for the offence under Section 307 r/w 149 IPC with default sentence of one week each and all the sentences to run concurrently. Said accused preferred Crl.A.No.248 of 2005 on the file of the learned Principal Sessions Judge that was made over to learned I Additional Sessions Judge, Kadapa, and the learned Sessions Judge by reversal and acquittal judgment dated 30.04.2009 allowed the appeal setting aside the conviction and sentence imposed by the trial Court in SC.No.107 of 2001 by acquitting the accused and cancelling the bail bonds and ordered to refund of fine paid by him after expiry of appeal time. It is subsequently A.3 was apprehended and faced trial in SC.No.135 of 2005 before the Additional Assistant Sessions Judge (FTC) Badvel, and he was acquitted vide judgment dated 30.06.2009 that also reached finality it appears. It is thus out of 13 accused covered by PRC.No.35 of 2000 only accused Nos.8, 9 & 13 shown in abscondence covered by SC.No.25 of 2005 for others faced trial and ultimately they were let off from the acquittal judgment of A.3 and the trial conviction judgment for others reversed by appellate Court referred supra. It is out of accused Nos.8, 9 & 13 of the spilt up case SC.No.25 of 2005, said accused Nos.8, 9 & 13 filed the present petitions. It is their submission that in view of the acquittal judgments supra from same evidence there is no material against them to put

ordeal of trial and thereby the case pending against them is liable to be quashed by conferring said benefit from the common evidence available ended in acquittal against those referred supra.

3. Learned counsel for the petitioners/accused reiterated the same and the learned Public Prosecutor opposed the same saying they having all through in abscondence intentionally out of the clutches of law now came forward cannot be permitted to take undue advantage other than facing trial and nothing to quash and liable to be dismissed.

4. Heard and perused the material on record.

5. The sum and substance of the accusation so far as the petitioners concerned is on same facts and participation from same evidence. Once such is the case, in the 2 sets of SC trial conducted by selfsame witnesses evidence re-recorded and ended in acquittal particularly A.3 by the trial Court and others even ended in conviction reversed by appellate Court with finality. Merely because they were earlier shown in abscondence or they fled away from the clutches of law that itself not a ground for no practical purpose even in asking them to face the trial with no any sustainable evidence that will outcome to convict them from selfsame witness re-examination even by taking such ordeal and valuable time of the Court and the witnesses of the prosecution agencies, thus need not be wasted even one way

the petitioners/accused are taking undue advantage by their abscondence from earlier but for to say for the earlier abscondence all through and in seeking the relief now and to sub serve the ends of justice they are each imposed costs of Rs.10,000/- payable to the State which is to the Head of Account to be remitted all fines recoverable under Section 421 r/w 431 Cr.P.C. and if they pay said costs before the trial Court within one month from the date of receipt of this order, the order comes into effect in directing the trial Court by virtue of this order to acquit them by closing the SC from their appearance and if they failed to comply this order ceases its force for all purposes for them to face trial.

6. Accordingly and in the result, these Criminal Petitions are allowed to that extent.

Miscellaneous petitions, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 31.12.2018
Note: L.R. Copy to be marked
(B/o)
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