

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

MAIN CASE No.: CrI.P. No.5097 of 2021

PROCEEDING SHEET

Sl. No	DATE	ORDER	Office Note
1.	08.09.2021	<u>CMR, J</u> <u>CrI.P. No.5097 of 2021</u> Learned Additional Public Prosecutor takes notice for 1st respondent/State and requests time to obtain instructions. Issue notice to 2nd respondent returnable in four (04) weeks. CMR, J <u>I.A.No.1 of 2021</u> The petitioner is accused in Crime No.226 of 2021 of Allagadda Town Police Station, Kurnool District. On a report lodged by the 2nd respondent that he has forged and fabricated the document in question, the above crime was registered against him for the offences punishable under Sections 465, 468 and 471 of I.P.C. The petitioner seeks quash of the said F.I.R. in the main criminal petition on the ground that already a suit has been filed for specific performance of contract on the basis of the said document and the document is now produced in the Court and as such, the prosecution for the said offences is not maintainable in view of the bar engrafted under Section 195 (1) (b) (ii) of Cr.P.C. The bar engrafted in Section 195 (1) (b) (ii) of Cr.P.C. is on the Court to take cognizance of the case. It mandates that unless a complaint is made by the Court or by the officer authorized by the Court in respect of the	

		document that is produced in the proceeding before this Court, that no Court shall take cognizance of the case. So, the bar is not on the police to register the F.I.R. and to investigate the same. Ultimately, if the police finds <i>prima facie</i> case and evidence regarding the offence that has been complained and files charge sheet, then, the bar under Section 195 (1) (b) (ii) of Cr.P.C. comes into play for the Court to take cognizance of the case. Therefore, in the said facts and circumstances of the case, the investigation cannot be interdicted. The facts of the case require investigation to ascertain whether the allegations ascribed in the F.I.R. are true or not. Therefore, in the said facts and circumstances of the case, the petition is dismissed. However, as the offences registered against the petitioner are punishable with less than seven years period of imprisonment, the Investigation Officer shall follow the procedure contemplated under Section 41A Cr.P.C. CMR, J ARR	
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