

THE HONOURABLE SRI JUSTICE RAJA ELANGO

Writ Petition No.38674 of 2016

ORDER:

The Writ Petition is filed invoking the writ jurisdiction challenging the order of the learned XVII Additional Chief Metropolitan Magistrate, Hyderabad, whereby the learned Magistrate has taken cognisance of the offences under Sections 448, 506, 427 read with Section 34 I.P.C.

The brief facts of the case are as follows :

The 2nd Respondent herein filed a complaint invoking the provisions under Section 200 Cr.P.C. with a prayer to direct the Police to investigate the case. The learned Magistrate without referring the matter invoked the provisions under Section 156(3) Cr.P.C. and directly taken cognisance and issued summons to petitioners herein. Further, it is the case of petitioners that no such occurrence had taken place and the Magistrate, instead of referring the matter, taken cognisance of the offence, which caused prejudice.

The Court, after hearing the matter, is of the view that once the complaint is filed invoking the provisions under Section 200 Cr.P.C., the options left open to the Magistrate are – (i) directing the investigation agency to register a case and proceed with the investigation; (ii) taking cognisance and also order enquiry under Section 202 Cr.P.C; and (iii) the Magistrate can directly take cognisance and proceed with the case. The

learned Magistrate has opted for the third option and proceeded with the trial of the case concerned. Therefore, the Court is of the view that the Writ Petition can be disposed of with the following directions :

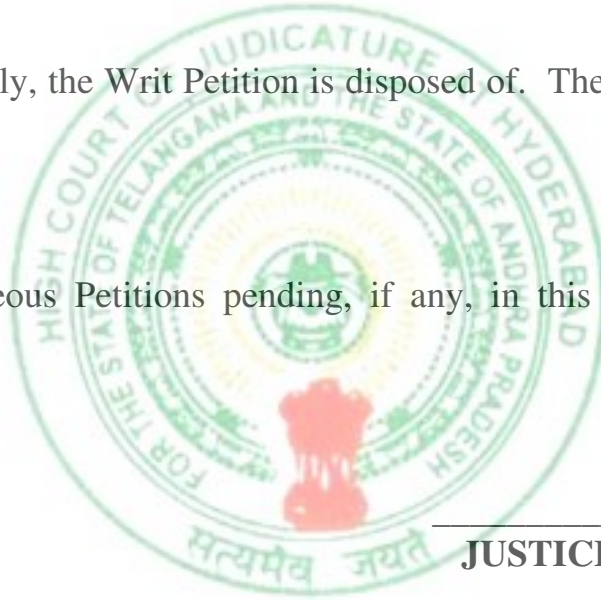
The petitioners are at liberty to file an application before the concerned Court for discharge. On such application, the learned Magistrate concerned is directed to consider these objections and the said argument placed by petitioners before the Court and dispose of the same in accordance with law. Further, the presence of petitioners before the trial Court is dispensed with till disposal of the discharge application.

Accordingly, the Writ Petition is disposed of. There shall be no order as to costs.

Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

11.11.2016

skmr



JUSTICE RAJA ELANGO