

THE HONOURABLE SRI JUSTICE RAJA ELANGO

Criminal Revision Case No.321 of 2016

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ORDER:

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The petitioner filed this Criminal Revision Case by invoking the provisions under Sections 397 and 401 of the Criminal Procedure Code being aggrieved by the order dated 28-01-2016 in C.C.SR.No.264 of 2016 on the file of the II Metropolitan Magistrate at L.B.Nagar, R.R.District, wherein and whereby the learned Magistrate returned the complaint filed by the petitioner invoking the provisions under Section 200 of Cr.P.C.

The petitioner filed a complaint invoking the provisions under Section 200 of Cr.P.C. seeking to take cognisance of the offence committed by the accused as per the Sections 120(B) & 420 read with Section 34 I.P.C. and punish the accused in accordance with law. The learned Magistrate returned the complaint observing as follows :

“However, as seen from the record and as per the list of documents *prima facie* the allegations are not supported by any *prima facie* proof hence in the circumstances and in the interest of justice this complaint is returned.”

This Court perused the records and heard the arguments.

When a complaint is preferred by a person invoking

the provisions under Section 200 Cr.P.C., if the learned Magistrate is not inclined to take cognisance, he has to refer the matter invoking the provisions under Section 156(3) Cr.P.C. which is pre-cognisance stage. If the learned Magistrate is not inclined to forward the complaint, he should examine the complainant and thereafter decide whether to take cognisance or to dismiss the complaint invoking the provisions under Section 203 Cr.P.C. and further, the Magistrate is also at liberty to take cognisance and also order for enquiry invoking the provisions under Section 202 Cr.P.C. But, in the present order, the learned Magistrate has not followed any of the procedures, but simply returned the complaint filed by the petitioner herein.

Hence, this Court is of the view that the Criminal Revision Case can be disposed of with the following directions :

The learned Magistrate concerned is directed to restore the C.C.SR.No.264 of 2016 and follow the procedures above mentioned and pass orders in accordance with law.

Accordingly, the Criminal Revision Case is disposed of.

Miscellaneous petitions pending in this revision, if any, shall stand closed.

JUSTICE RAJA ELANGO

01st February, 2016

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