

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.16204 OF 2016

ORDER:

This petition is filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the F.I.R.No.198 of 2016 dated 11.08.2016 on the file of Balkonda Police Station, which was registered suomoto by the respondent No.4, on the ground that the Sub-Divisional Magistrate – Revenue Divisional Officer passed order under Section 145 of Cr.P.C. without causing any enquiry.

The main ground urged before this Court to quash the proceedings is that the Sub-Divisional Magistrate did not record his satisfaction to pass such order dated 16.08.2016 under Section 145 Cr.P.C. and recording of satisfaction is mandatory and in the absence of recording such satisfaction the order is vitiated for non-compliance of mandatory requirement.

Learned Public Prosecutor did not raise any other contention except that the order passed by the Sub-Divisional Magistrate is inconsonance with the Section 145 Cr.P.C.

Sub-Divisional Magistrate shall make an order in writing, stating the grounds of his being so satisfied while passing order under Section 145 Cr.P.C., such recording of satisfaction is mandatory. But the entire order under challenge is silent with regard to mandatory requirement of recording satisfaction while passing order under Section 145 Cr.P.C.

The contention of the learned counsel for the petitioner is supported by the judgment of Division Bench of this Court

rendered in “***Bheeravolu Madan Mohan Reddy v. Sub-Divisional Magistrate and Revenue Divisional Officer, Polancha, Khammam District and another***¹”, wherein it is held that if the Sub-Divisional Magistrate passed any order without following the requirement under Section 145 of Cr.P.C., the same is invalid and recording of satisfaction is mandatory and when the Sub-Divisional Magistrate did not follow the procedure, his order is liable to be quashed.

Basing on the law laid down by the Division Bench of this Court in the aforesaid judgment, the petition is allowed as prayed for. No costs.

The miscellaneous petitions pending, if any, shall also stand closed.

23.11.2016
Ksp

JUSTICE M. SATYANARAYANA MURTHY

¹ 1998 (2) ALD (Crl.) 186 (A.P.)