

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.2024 OF 2017

ORDER:

The present Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed questioning the order, dated 06.10.2016, passed in CrI.R.P.No.178 of 2014 on the file of IV Additional Metropolitan Sessions Judge, Ranga Reddy District at L.B. Nagar.

2. The said CrI.R.P. arises out of the cognizance taken by the learned XV Metropolitan Magistrate, Cyberabad, Medchal, erstwhile Ranga Reddy District, in C.C.No.230 of 2014.

3. Heard Sri J.C. Francis, learned counsel for the petitioner, and learned Additional Public Prosecutor for the State of Telangana.

4. Perused the order taking cognizance by the learned XV Metropolitan Magistrate, and the office note at page No.21 of the material papers, which is a photostat copy of a page of the charge sheet. There was a seal placed beneath the office note and filing the gaps in the seal, cognizance was taken by the learned XV Metropolitan Magistrate. Such use of seal does not indicate application of mind, since it suffers for want of reasons, basing on which, cognizance was taken by the learned Magistrate. Though, the revisional authority has taken note of this fact, but, somehow, made an observation to the effect that "but having perused the contents in the

charge sheet and the allegations in the charge sheet, taking of cognizance of the offences under Sections 409, 468, 408 and 420 of IPC against the petitioner at this stage cannot be said to be illegal and if the petitioner has any grievance that the allegations in the charge sheet would not make out any case against him, the petitioner is at liberty to agitate the same before the learned trial judge during examination of the petitioner and framing of charges and the petitioner is at liberty to take the same plea before the learned trial judge. So, taking cognizance of the offence by the learned Magistrate, basing on the allegations in the charge sheet do not warrant any interference by this Court, as there is no illegality, as such this Court do not find any merits in the petition and the petition is liable to be dismissed.”

5. The learned revisional Judge, some how, appears to have lost sight of the main ground agitated by the petitioner, which relates to application of mind by the learned Magistrate before taking cognizance of the case, and having perused the order of cognizance, where only seal is used, still, made such an observation as stated above, which appears to be patently wrong. In fact, the revisional Judge ought to have set aside the order taking cognizance by the learned Magistrate and relegate the matter to the XV Metropolitan Magistrate, Cyberabad, Medchal, to examine the contents in the charge sheet as well as other material papers filed along with it and then, by application of mind, assign reasons and take cognizance of

the case or act in accordance with law. But, that was not done. Therefore, the order under challenge is liable to be set aside, so also the cognizance taken by the learned XV Metropolitan Magistrate, Cyberabad, Medchal.

6. Accordingly, the present Criminal Petition is allowed. The order under challenge is set aside, so also the cognizance taken by the learned XV Metropolitan Magistrate, Cyberabad, Medchal, on 14.06.2014, and the learned XV Metropolitan Magistrate is hereby directed to examine the contents in the charge sheet as well as the documents filed along with it, and thereafter, by assigning reasons, pass an order as to whether cognizance for the offences alleged could be taken or otherwise.

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

A. SHANKAR NARAYANA, J

March 14, 2017.
MD