

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.1981 OF 2017

ORDER:

The present petition is listed again for 'Further Hearing' in view of the fact that earlier a mistake was crept into on account of viewing the order in Criminal M.P. Nos.911 & 912 of 2015 in C.C. No.712 of 2010 on the file of IV-Metropolitan Magistrate, Cyberabad at Ibrahimpatnam, Rangareddy District, as the impugned order. But, at the time of making corrections, the said mistake was detected and at that stage the order is left unsigned so as to hear both sides by calling on bench.

2. On bench, an opinion was expressed while hearing the matter that the learned Magistrate ought not to have returned Criminal M.P. (SR) No.517 of 2017, dated 3.3.2017 and ought to have passed the order in case of rejection 'an order of rejection' or in case of accepting it 'to register as regular criminal M.P.'. The impugned order reads thus:

"SR No. 517 of 2017

3/3/2017

O.N.

This petition filed u/sec. 311-A CrPC in CC 712/10 by prosecution raying this Hon'ble Court to take the left thumb impression of A1 in open court.

Notice given to other side, but similar petition filed vide CrIMP 911/15 after due enquiry. Same petition was dismissed vide separate order. But no revision was preferred by prosecution till now.

Submitted,

Return as there are no grounds to number the petition.

sd/- 3.3.2017

IV MM."

3. Heard Sri Midhun Kumar Allu for M/s. Vankina Allu & Parasaram, the learned counsel for the petitioner and Sri T. Nitender Singh for Sri T. Pradyumna Kumar Reddy, the learned counsel for respondent No.3.

4. The learned Magistrate returned the petition referring to the order earlier passed in Criminal M.P. No.911 of 2015, expressing that there are no grounds to number the petition. But, the learned Magistrate ought to have passed an appropriate order when he forms an opinion. However, an opportunity has to be given to the petitioner by way of resubmitting the petition and then pass appropriate orders even before numbering it. When it is not a rejection order, the petitioner gets a right to resubmit it answering the ground mentioned in the penultimate paragraph. On resubmission, it is open to the learned Magistrate to pass appropriate orders in accordance with law even before numbering the CrI. M.P.

5. The Criminal Petition is accordingly disposed of.

As a sequel thereto, miscellaneous petitions if any pending in the Criminal Petition shall stand closed.

Learned counsel for the petitioner would represent that original returned petition is in their custody.

A. SHANKAR NARAYANA, J

Date: 07.06.2017

gbs