

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

WRIT PETITION No.17232 OF 2017

ORDER:

The present Writ Petition, under Article 226 of the Constitution of India, is filed seeking to issue writ of mandamus declaring the action of the third respondent, in not following the procedure contemplated under Section 41A Cr.P.C., in spite of issuing legal notice in Cr.No.131 of 2017, dated 17.04.2017, as illegal and arbitrary.

2. Heard Sri J.M.Naidu, learned counsel for the petitioner, and the learned Assistant Government Pleader for Home.

3. The petitioner makes a request to direct the third respondent to follow the procedure inlaid by the provisions of Section 41A Cr.P.C., since the offences alleged against the petitioner are punishable under Sections 153A and 298 IPC, which are provided with imprisonment not exceeding seven years.

4. The name of the petitioner is occurring in the F.I.R. registered in Cr.No.131 of 2017, dated 17.04.2017, by the Station House Officer, Tirupathi East, and the offences alleged against the petitioner are punishable under Sections 153A and 298 IPC. The legislative mandate is that the Station House Officer concerned has to invariably follow the procedure inlaid in Section 41A Cr.P.C. Even

the Honourable Apex Court in **Arnesh Kumar v. State of Bihar and another**¹ has laid down certain guidelines.

5. Therefore, the present Writ Petition is disposed of directing the Station House Officer, Tirupathi East Police Station, Tirupathi-third respondent to follow the procedure inlaid by the provisions of Section 41A Cr.P.C. There shall be no order as to costs. Miscellaneous Petitions, if any, pending in this Writ Petition, shall stand closed.

May 25, 2017.
Tsy/MD

A. SHANKAR NARAYANA, J



¹2014 (8) SCC 273