

SMT. JUSTICE T. RAJANI

CRIMINAL PETITION No.8463 of 2011

ORDER:

This criminal petition is filed seeking for quash of the proceedings in C.C.No.643 of 2009 on the file of the Judicial First Class Magistrate, Nandigama, Krishna District.

Heard learned counsel for the petitioner and learned Public Prosecutor for the 1st respondent. None appears for the 2nd respondent, in spite of notice.

The main contention of the learned counsel for the petitioner's is that the case was registered for the offence under Sections 497, 506 IPC, which are non-cognisable. As per Section 155 Cr.PC., the Police shall not proceed with the investigation without the order of the Magistrate. In this case, no such order was obtained and charge sheet is filed after investigation, and it is only by virtue of the charge sheet, direction was sought from the Court, for summoning the accused. Hence, the above would show that the prescribed procedure under Section 155 Cr.PC., is not followed by the Police and the same is vitiated by the Police.

The learned Public Prosecutor has not disputed the facts as put forth by the learned counsel for the petitioner before this Court.

Considering the above, this petition is allowed and the proceedings against the petitioner in C.C. No.643 of 2009, on the file of the Judicial I Class Magistrate, Nandigama, Krishna District, are hereby quashed.

With the above, the criminal petition is allowed. As a sequel, the miscellaneous applications, if any pending, shall stand closed.

JUSTICE T. RAJANI

Date: 26.12.2017
LSK