

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Crl.R.C.No.1875 of 2015

ORDER:

This criminal revision case is filed under Sections 397 and 401 of Cr.P.C challenging the order dated 27.06.2015 in Crl.M.P.No.2 of 2015 in Crime No.7 of 2013 passed by the V Additional Judicial Magistrate of First Class, Nellore, which runs as follows:

"C/paid. Sworn statements received.

Heard.

A Prima facie case for the offence under Section 498(A) IPC is made out against the accused No.2 to 4. Hence, Office is directed to take cognizance for the offence u/s 498(A) against A.2 to A4 also."

Upon hearing arguments of learned counsel for the petitioner in protest petition, the trial Court satisfied that there is *prima facie* case for the offence punishable under Section 498(A) IPC and a case is made out against A2 to A4, but instead of taking cognizance by the Court by applying judicial mind to the facts of the case, directed the office to take cognizance.

This order is in clear violation of requirements of law. Without application of mind to the facts of the case, passing such order directing the office to take cognizance is nothing but delegating power to the staff without applying judicial mind. Such an order cannot be sustained. Therefore, the order dated 27.06.2015 in Crl.M.P.No.2 of 2015 in Crime No.7 of 2013 passed by the V Additional Judicial Magistrate of First Class, Nellore is hereby set aside while directing the Magistrate concerned to apply his/her mind and take cognizance by appropriate order within one month

from the date of receipt of a copy of this order in accordance with law.

With the above direction, the criminal revision case is disposed of.

Miscellaneous petitions, if any, pending in the criminal revision case, shall stand closed.

M. SATYANARAYANA MURTHY J

Date: 10.10.2017
kvrn

