

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.7210 OF 2017

ORDER:

This criminal petition, under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), is filed to quash the order dated 09.06.2017 in CrI.M.P.No.1037 of 2017 in C.C. No.5 of 2011 passed by the Principle Sessions Judge for CBI cases, Visakhapatnam, on the ground that the reason assigned by the respondent before this court is different from the reason assigned by the trial court in receiving documents.

During hearing, Sri I.Koti Reddy, learned counsel for the petitioner, would draw the attention of this court to the second paragraph of the petition, which reads as follows:

“...it is submitted that a few documents as mentioned below were mentioned in the 161 Cr.P.C. statements of a few witnesses, which were already filed in the Hon'ble Court along with the charge sheet, have not been cited as listed documents inadvertently”

On the ground inadvertence to file those documents in the list of documents, Public Prosecutor sought to receive the documents. But the trial court at paragraph 3 of the order made out a different ground and passed an order impugned in the criminal petition. The court is expected to record the reason based on the allegation made in the petition and cannot invent a different cause to receive documents.

Therefore, taking into consideration of the discrepancy of the reason mentioned in the petition and inventing a different reason by the trial court, the order is liable to be set aside, remanding the

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matter to the trial court to decide the petition afresh in accordance with law.

With the above direction, the criminal petition is disposed of.

Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

M.SATYANARAYANA MURTHY, J

16.08.2017
BV

