

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No. 12721 OF 2017

ORDER:

This criminal petition is filed under Section 482 of the Code of Criminal Procedure (for short, "Cr.P.C.") to quash the promulgate orders of respondent No. 1 *vide* proceedings in Rc.No. F.9563/2017 dated 08-12-2017 restraining the petitioner and respondent No. 3 from entering into the site shown in the schedule.

2. The first and foremost ground raised by learned counsel for the petitioner before this Court is that respondent No. 1 did not follow the procedure prescribed under Section 145 Cr.P.C. and on this sole ground, the petition is liable to be dismissed. Learned counsel has referred to and relied on the judgment of this Court in ***Shaik Liyaqat and others Vs. State of Telangana***¹ in support of his contention.

3. A perusal of the impugned order would go to show that crime No. 153 of 2015 for the offence punishable under Sections 447, 506 read with Section 34 I.P.C. was registered by respondent No. 2 and that respondent No. 2 addressed letter dated 07-12-2017 to respondent No. 1 to pass appropriate orders under Section 145 Cr.P.C. However, respondent No. 1, without issuing notice as required under Section 145 (1) Cr.P.C. calling upon both the parties to appear before his Court in person or through their counsel and to put in written statements of their respective claims, passed the impugned order. Indubitably, the present dispute is squarely covered by the judgment of this Court in ***Shaik Liyaqat*** (*supra*). Learned Public Prosecutor (A.P.) has also fairly conceded that

¹ 2017 (1) ALT (CrI.) 312 (A.P.)

the impugned order does not disclose about compliance of the requirements under Section 145 Cr.P.C.

4. In the light of the above, the impugned order is not sustainable as it was passed without affording reasonable opportunity to the parties and it is against the principles of natural justice and the same is liable to be set aside and is accordingly set aside. Respondent No. 1 is directed to follow the procedure contemplated under Section 145 Cr.P.C. and pass appropriate orders.

5. The criminal petition is accordingly allowed. Pending miscellaneous petitions, if any, in this criminal petition shall stand closed in consequence.

Date: 21-12-2017.

JSK

M.SATYANARAYANA MURTHY, J.



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DATE: 21ST DECEMBER, 2017

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