

SMT JUSTICE T.RAJANI

CRIMINAL PETITION No.2155 OF 2011

ORDER:

This petition is filed by the petitioner, who is A5, seeking to set aside the order, dated 27.02.2009, passed in CC (SR) No.229 of 2009 on the file of the court of Principal Special Judge for SPE & ACB Cases, Hyderabad, by virtue of which the court below took cognizance of the case and forwarded the complaint under Section 202(1) CRPC to the Director General, ACB, Hyderabad for investigation. The offences alleged are under Sections 120-B, 167, 201, 409, 420, 463, 465, 466, 468, 471 and 474 r/w 34 IPC.

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

3. The only challenge to the order is on the ground that the court did not follow the procedure prescribed under Section 200 CRPC before taking cognizance of the case. Section 200 CRPC reads as follows:

“200. Examination of complainant. A Magistrate taking cognizance of an offence on complaint shall examine upon oath the complainant and the witnesses present, if any, and the substance of such examination shall be reduced to writing and shall be signed by the complainant and the witnesses, and also by the Magistrate”

4. Hence, it is clear that before proceeding with the procedure under Section 202, the Magistrate has to comply with the procedure under Section 200 CRPC. Hence, this court deems it fit to remand the matter to the lower court to consider the matter afresh and follow the procedure as prescribed by law.

5. With the above observations, the Criminal Petition is disposed of and the matter is remitted to the court below for consideration of the matter afresh in accordance with law. Interim stay granted by this court on 11.03.2011, passed in CRLP MP No.2189 of 2011, shall stand vacated.

As a sequel, the miscellaneous applications, if any pending, shall stand closed.

December 6, 2018
LMV



T.RAJANI, J