

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.6453 of 2011

ORDER:

This petition is filed seeking for quash of the proceedings against the petitioners, who are accused Nos.1 to 3, in Crime No.132 of 2011 on the file of Yadagirigutta Police Station, Nalgonda District.

2. Heard the counsel for the petitioners; the Public Prosecutor appearing for the 1st respondent; and the counsel appearing for the 2nd respondent.

3. The counsel for the petitioners submits that this is a case filed under Section 138 of the Negotiable Instruments Act, 1881 (for short, "the Act"), but the Magistrate instead of following the procedure prescribed for the same, referred the matter Under Section 156(3) Cr.P.C. for further investigation.

4. The said act of the Magistrate would only constitute a procedural irregularity. Hence, the order of the Magistrate referring the matter under Section under Section 156(3) Cr.P.C. is set aside and the Magistrate is directed to follow the procedure prescribed for taking cognizance of the offence in respect of a complaint filed under Section 138 of the Act.

5. In view of the above, all the proceedings subsequent to the reference of the complaint under Section 156(3) Cr.P.C., shall stand nullified.

6. With the above observations, the Criminal petition is allowed and the proceedings against the petitioners, who are accused Nos.1 to 3, in Crime No.132 of 2011 on the file of the Yadagirigutta Police Station, Nalgonda District, are hereby quashed. It is made clear that the court can act on the complaint as per the prescribed procedure.

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

January 2, 2018
LMV

T. RAJANI, J

