

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

Crl.P. No.7971 OF 2018

ORDER:

This criminal petition is filed under Section 482 Cr.P.C. to quash the proceedings in PRC No.7 of 2018 on the file of Judicial Magistrate of First Class, Tandur, for the offences punishable under Sections 420, 409, 468, 506 Part II IPC, Section 5 of the A.P. Protection of Depositors of Financial Establishments Act, 1999 and Section 3 of the A.P. Chit Prizes Banning Money Circulation Act.

The 2nd respondent lodged report with the police alleging that the petitioners committed the offences referred above and on the strength of the complaint, the police registered Crime No.97 of 2017 of Tandur Police Station for the offences referred above. On the strength of FIR, the Inspector of Police took up investigation and examined as many as five witnesses, recorded their statements under Section 161(3) Cr.P.C., collected evidence during investigation and on the strength of the same, the Inspector of Police concluded that there is sufficient material to proceed against the petitioners for various offences and filed charge sheet before the Judicial Magistrate of First Class, Tandur.

The Magistrate having concluded that the case is exclusively triable by Sessions Court, followed the procedure under Section 207 Cr.P.C and it is pending for consideration at PRC No.7 of 2018 for various offences to commit the case following procedure under Section 209 Cr.P.C. The reason for filing charge sheet before the Magistrate is to commit the matter to the Sessions Court by following necessary procedure prescribed under Sections 207 and 209 Cr.P.C. The Government by notification dated 01.07.1999 appointed the Principal District and Sessions Judge as Special Judge for trial of cases under A.P. Protection of Depositors of Financial

Establishments Act, 1999 and conferred original jurisdiction on it. Though the Sessions Court cannot take cognizance directly unless it is committed to it, in view of the special power conferred on it under the said enactment, the Principal District and Sessions Judge shall take cognizance of offence, on filing of charge sheet before it subject to satisfaction. Instead of following the procedure for taking cognizance on filing charge sheet before the Special Judge for trial of Cases, the charge sheet was filed before the Magistrate and it was registered as PRC for committal. Since the case is exclusively triable by the District Judge, the procedure under Section 209 Cr.P.C. is not necessary as the Sessions Court being the Special Judge for trial of cases designated under the enactment and can take direct cognizance of offence in terms of the provisions of the Act and rules framed therein. Therefore, the procedure adopted by the Magistrate and registration of the crime as PRC is illegal. As such, the Magistrate is directed to take appropriate steps for return of the charge sheet for filing charge sheet before the designated Court i.e. Principal District and Sessions Judge to proceed further.

Accordingly, the criminal petition is allowed quashing the proceedings in P.R.C.No.7 of 2018 directing the Magistrate to return the charge sheet for presentation before the competent Court i.e. Special Judge for trial of cases under the Act and on presentation of charge sheet, the Special Judge for trial of case under the Act shall proceed further in accordance with law.

Pending miscellaneous petitions in the petition, if any, shall stand closed.

M.SATYANARAYANA MURTHY,J

17.08.2018
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