

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.12319 of 2011

ORDER:

The criminal petition is filed seeking quash of the proceedings in CC.No.251 of 2011, against the petitioners, who are A1 to A3, on the file of the Judicial Magistrate of First Class, Manuguru. The offences alleged are under Sections 420, 468 and 471 of the Indian Penal Code.

2. Heard the counsel for the petitioners, the learned Public Prosecutor appearing for the first respondent and the counsel for respondents 2 and 3.

3. The grievance of the petitioners is that after filing of the final report on 13.07.2011, the Court below took cognizance of the case against the accused in spite of the fact that final report was filed closing the case as civil in nature. He further submits that the protest petition was filed on 17.11.2011 and hence, the said order cannot be sustained.

4. This Court, in order to verify whether any such docket order was passed, called for the record and perused the record and found that no order was, in fact, passed in CC.No.251 of 2011 on 24.08.2011. It is absolutely understandable as to how the copy application, which was filed seeking for certified copy of the order dated 24.08.2011 was entertained and as to how the certified copy of the docket order could have been issued. On 17.08.2011, the Court below in CRLPMP.No.798 of 2011, which is a protest petition filed by the respondents, posted the matter to 24.08.2011 after hearing the petitioner counsel and for

recording his sworn statement. But the docket order dated 24.08.2011 straightaway records that the material on record and evidence of P.Ws.1 and 2 was perused and the case was taken cognizance against A1 to A3. When the matter was taken on file on 24.08.2011, as to how the evidence of P.Ws.1 and 2 could have been recorded on that date itself and as to how the evidence was perused is ununderstandable.

5. Hence, in view of the above, the order dated 24.08.2011 is set aside and the Court below is directed to consider the matter afresh and pass appropriate orders.

The criminal petition is allowed as indicated above. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

December 3, 2018
DSK



T. RAJANI, J