

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.24794 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C to quash the order dated 16.08.2016 passed by the Judicial Magistrate of First Class, Kurnool referring the complaint to the police by exercising power under Section 156(3) Cr.P.C. for investigation and to file report.

On the strength of the said report, Kurnool II Town Police registered a case in Crime No.436 of 2017 on 02.11.2017 and issued FIR for the offence punishable under Section 420 read with 34 IPC.

The contention raised before this Court is that the order passed by the trial Court is totally contrary to the law declared by the Apex Court in **Priyanka Srivatsav v State of Uttar Pradesh**¹ when a private complaint is presented before the Magistrate, he has to apply his mind and call upon the complainant to examine himself on oath, so that he can treat it as a private complaint and that the reason for insisting affidavit by the Court is to make them more responsible for the allegations made against the accused in the private complaint filed by an individual.

The 1st respondent filed a private complaint before the Magistrate under Section 200 Cr.P.C. making serious allegations, but the Magistrate passed the following cryptic order:

“Complainant present. This case is referred to Kurnool II Town Police Station under Section 156(3) Cr.P.C. for investigation.”

¹ 2015(4) Scale 120

Thus, from the settled law laid down by the Apex Court no prejudice would be caused to any one of the parties on account of the mistake of the Court or its staff. Therefore, I find that it is appropriate to set aside the order dated 16.08.2016 passed by the Judicial Magistrate of First Class, Kurnool to apply his/her mind and pass appropriate orders following the guidelines issued by the Apex Court in **Priyanka Srivatsav's** case.

With the above direction, the criminal petition is allowed.

Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

02.01.2018
kvrm

M. SATYANARAYANA MURTHY,J

