

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO
CRIMINAL PETITION NO. 120 OF 2015

ORDER:

Heard the counsel for the petitioner.

2. The petitioner-A2 seeks recall of NBW issued against him by the Special Judicial Magistrate of First Class (FTC), Nandyal, Kurnool District in C.C.No. 191 of 2010. As per the impugned order dated 23.12.2014, it appears that the said Court issued NBW against the petitioner-A2 for his absence. Initially the Judicial Magistrate of First Class, Nandyal has taken cognizance and later the said case is transferred to the Special Judicial Magistrate of First Class.

3. Now the submission of the learned counsel for the petitioner is that in CrI.P.No. 6684 of 2013, the Hon'ble High Court in its order dated 6.2.2014 dispensed with the presence of the petitioner-A2 in CC No. 191 of 2010 before the Trial Court except on the dates when his presence was specifically required by the Court and on 23.12.2014 his presence was not specifically required and inspite of it NBW was issued against him and, therefore, the said order may be quashed.

4. The learned Public Prosecutor opposed the petition.

5. Perused the order in CrI.P.No. 6684 of 2013.

6. In the result, the Criminal Petition is allowed and the petitioner-A2 is directed to appear before the Special Judicial Magistrate of First Class (FTC), Nandyal on the next hearing date and move the NBW recall petition and on such application, the learned Magistrate shall recall the NBW. It is made clear that in view of orders in CrI.P.No. 6684 of 2013, dispensing with the presence of A2 in CC No. 191 of 2010, the learned Magistrate can order for his presence on a particular adjournment, only on prior intimation to him.

7. As a sequel thereto, miscellaneous petitions, pending if any, shall stand closed.

U.DURGA PRASAD RAO, J

Date: 22.01.2015
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