

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

CRIMINAL PETITION No.6570 of 2015

ORDER:

This criminal petition is filed by the petitioners/A1 and A2, under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C'), to quash the docket order dated 16.04.2015 in Crime No.173/2011 in P.R.C. No.15/2015 on the file of VI Additional Judicial Magistrate of First Class, Warangal.

2. The petitioners have previously filed Criminal Petition No.7266/2011 and this Court by order dated 28.08.2014 directed not to arrest them without following the procedure contemplated under Section 41A Cr.P.C, therefore, they were not arrested. After completion of investigation charge sheet has been filed and the learned Magistrate took cognizance of the case and registered the case as P.R.C. No.15/2015 and has issued warrant to secure the presence of petitioners/A1 and A2.

3. It is stated by the learned counsel for petitioners that instead of issuing summons, the learned Magistrate has straight away issued warrant, hence, the present criminal petition.

4. It is no doubt true that after taking cognizance, in a case of this nature, it is the discretion of learned Magistrate either to issue summons or warrant where the accused has approached the Court during pendency of investigation and obtained orders to the effect that they should not be arrested without following the procedure contemplated under Section 41A Cr.P.C. If that be the case, straight away issuing of warrant against the petitioners/A1 and A2 cannot be warranted. However, since the warrant has already been issued, it is directed that the petitioners/A1 and A2 shall appear before the learned Magistrate within two (2) weeks from today and file an appropriate application to recall the said warrant. In such an event, the learned

Magistrate shall dispose of the application of the petitioners/A1 and A2 on the same day, on which it is filed, on reasonable terms, in accordance with law.

5. Accordingly, the Criminal Petition is disposed of.

Pending miscellaneous applications, if any, shall stand closed in consequence.

M.S.K.JAISWAL,J

Date: 14.07.2015

Note: Issue C.C. by tomorrow

(B/o)

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