

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CrI.P.No.3487 of 2015

ORDER :

This Criminal Petition is filed challenging the docket order dt.09.03.2015 in SC.No.5 of 2013 on the file of Special Judge Under S.C.s & S.T.s (POA) Act – cum – X Addl. Sessions Judge, Krishna, Machilipatnam, to quash the non-bailable warrants issued against petitioners.

2. Heard Sri P. Veera Reddy, Senior Counsel appearing for Smt. V. Himabindu, and the learned Public Prosecutor (State of Andhra Pradesh).

3. The counsel for petitioners would submit that petitioners are only witnesses, and they cannot be compelled to appear before the Court by issuance of a warrant.

4. This contention is refuted by the learned Public Prosecutor who pointed out that under Section 87 of Cr.P.C., a Court may, in any case in which it is empowered by this Code to issue a summons for the appearance of any person, issue, after recording its reasons in writing, a warrant for his arrest also.

5. Since Section 87 does not use the word ‘accused’ and uses the word ‘any person’, I am of the opinion that there is no prohibition for the Court to issue a warrant for

the arrest of a witness also, and that the power under Section 87 need not be confined only to an accused.

6. Similar view appears to have been taken in **State of U.P. v. Babu**^[1] and **V.P. Shivanna v. Bhadrana**^[2].

7. However, in the interests of justice I feel that one opportunity should be given to petitioners to appear before the Court below subject to condition that petitioners shall appear before the Court below on the next date of hearing without fail and, if they do not, the N.B.W.s issued against them shall be implemented. Till the next date of hearing, the N.B.W.s issued against petitioners shall be kept in abeyance. Therefore, this Criminal Petition is disposed of accordingly. No order as to costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 21-04-2015
Ndr/*

^[1] 1991 CrLJ 991

^[2] 1993 CrLJ 418 (421) (Kant)