

**HON'BLE DR. JUSTICE B.SIVA SANKARA RAO**

**CRIMINAL REVISION CASE No.941 OF 2017**

**ORDER:**

Before admission and before issuing notice to 2<sup>nd</sup> respondent/defacto complainant, heard the learned counsel for petitioners/accused and also the learned public prosecutor representing the State.

2. The petitioners are accused 1 and 2 of C.C.No.25 of 2017, outcome of a private complaint case, for the offence under Section 420 I.P.C., after observing the legal formalities contemplated by Sections 200 to 204 r/w. 190 Cr.P.C., the learned Magistrate, having taken cognizance of the offence punishable under Section 420 r/w 34 I.P.C., against both of the accused, issued summons for their appearance. As the summons were returned not honoured, though the accused are claiming that it is to a wrong address, the learned Magistrate issued N.B.Ws and when sought for the recall under Section 70(2) Cr.P.C., without their presence, the applications were ended in dismissal and impugning the same, present revision is filed.

3. As held by the Apex Court issuing of process is not a mere interlocutory order in nature, the revision is held maintainable.

4. However for nothing wrong in the impugned order, but for the say of summons not served as not sent to correct address of them, liberty is given by this order to the petitioners to file fresh application under Section 44 Cr.P.C. and surrender before the learned Magistrate and in such an event, the learned Magistrate to obtain bond with sureties if any as contemplated by Section 88 and 89 Cr.P.C., on the same day for their release, with all necessary conditions for securing their future appearance.

5. Accordingly, Criminal Revision Case is disposed of with the above directions. Miscellaneous petitions pending, if any, in this case shall stand closed.

**04.04.2017**  
**SS**

**DR.B.SIVA SANKARA RAO,J**

