

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Crl.P.No.11770 of 2017

ORDER

This petition is filed under Section 482 Cr.P.C., by A1 to A3 in P.R.C.No.44 of 2017 pending on the file of Additional Judicial Magistrate of First Class, Markapur, Prakasham District, for the offences punishable under Sections 18(a), 28, 22(3) and 27(c) of the Drugs and Cosmetics Act, 1940, to recall non bailable warrants issued on 21.10.2017.

The Magistrate after taking cognizance of offence based on the complaint made by the Drug Inspector, instead of issuing summons, issued non bailable warrant by exercising power under Section 204 (1)(b) Cr.P.C.

Section 204 Cr.P.C. deals with issue of process after taking cognizance of offence. Section 204(1)(b) permits the Court in a warrant case, he may issue a warrant, or if he thinks fit, a summons, for causing the accused to be brought or to appear at a certain time before such Magistrate or (if he has no jurisdiction himself) some other Magistrate having jurisdiction. So the discretion is vested on the Magistrate to issue warrant or summons subject to his satisfaction.

Since the offences are not so serious, the order dated 21.10.2017 passed by the Additional Judicial Magistrate of First Class, Markapur, issuing NBWs against the petitioners is not proper exercise of discretion that vested on it and the same is hereby set aside, treating the same as summons. The petitioners are directed to appear before the Court below, treating this petition itself as

summons on any date of adjournment in person within one month from today.

With the above observation, the criminal petition is disposed of.

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

M. SATYANARAYANA MURTHY, J

29th November, 2017
kvrn

