

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Crl.P.No.12384 of 2017

ORDER

This petition is filed under Section 482 Cr.P.C., to quash the order dated 01.11.2017 in Crl.M.P.No.1371 of 2016 in M.C.No.13 of 2015 pending on the file of Judicial Magistrate of First Class, Mylavaram, issuing non bailable warrant..

The petitioner/respondent filed this petition to recall non bailable warrant on the ground that he is ready to pay the maintenance as per the orders of the trial Court.

Since the impugned order is only interlocutory innature, the petitioner is entitled to file application under Section 70(2) Cr.P.C. before the trial Court. Instead of filing such application, the petitioner directly approached this Court to discharge duties of the Magistrate, which power cannot be exercised by this Court under Section 482 Cr.P.C. and it is the discretion of the Magistrate to recall the warrant..

Therefore, the petitioner is directed to file appropriate application under Section 70(2) Cr.P.C. for recall of non bailable warrant after serving notice on the respondent and on filing such application, the Magistrate concerned is directed to decide the said application on the same day, in accordance with law.

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

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

14.12.2017
kvrn

M. SATYANARAYANA MURTHY, J