

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.12894 OF 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the order dated 01.11.2017 in CrI.M.P.No.4147 of 2017 in C.C.No.1200 of 2008 passed by the VI Additional Judicial Magistrate of First Class, Rajamahendravaram dismissing the petition filed under Section 70(2) of Cr.P.C. for recall of the warrant.

The charge-sheet was filed in the year, 2008 before the Magistrate Court, the same was numbered as C.C.No.1200 of 2008 and it is pending due to non-appearance of the petitioner.

It is the case of the petitioner that no summons were served calling upon him to appear before the Court in the said C.C. The Court below issued NBW on 31.05.2002, which is pending for adjudication. Having come to know about the pendency of NBW, the petitioner filed a petition under Section 70(2) of Cr.P.C. to recall the NBW, but the Court below dismissed the same on the ground of his non-appearance.

Learned counsel for the petitioner submits that as no summons were served on the petitioner, the Magistrate concerned may be directed to dispose of the petition filed under Section 70(2) of Cr.P.C., on appearance of the petitioner, on same day, after serving notice.

In view of the facts and circumstances of the case and considering the submission made by the learned counsel for the petitioner, the order dated 01.11.2017 passed in CrI.M.P.No.4147 of 2017 in C.C.No.1200 of 2008 by the VI Additional Judicial

Magistrate of First Class, Rajamahendravaram, is hereby set aside.

The petitioner is directed to appear before the learned Magistrate and file a fresh petition after serving notice to the 2nd respondent.

On filing such petition, the learned Magistrate is directed to dispose of the same, on merits, on the same day.

With the above direction, the Criminal Petition is disposed of.

Miscellaneous petitions, if any, pending shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 29.12.2017

ssp

