

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Crl.P.No.12255 of 2017

ORDER

This criminal petition is filed under Section 482 of Cr.P.C., to quash the docket order dated 03.11.2017 passed in C.C.No.796 of 2013 by the I Additional Judicial Magistrate of First Class, Karimnagar, ordering issue of NBW against the petitioners/A1 to A4 while dismissing the application filed by them under Section 317 of Cr.P.C. on the date of adjournment i.e., 03.11.2017.

2. This petition is filed on the ground that the petitioners could not appear before the trial Court on the date of adjournment, as the first petitioner was unable to move from the bed due to illness and petitioners 2 to 4 were attending on him. They also filed a medical certificate along with the petition, but the Magistrate did not accept the said contention and dismissed the petition while ordering issue of NBW against the petitioners.

3. The medical certificate annexed to the petition, at best, would show that the first petitioner was suffering from neuro problem and the other petitioners were allegedly attending on him. But, attendance of three persons on one patient, who was suffering from neuro problem, is not acceptable. Therefore, the trial Court has rightly dismissed the petition while ordering issue of NBW. Instead of filing a petition to recall NBW before the Magistrate, the petitioners have approached this Court under Section 482 of Cr.P.C. to quash the order dated 03.11.2017 in C.C.No.796 of 2013. Since the Magistrate has rightly exercised his jurisdiction, this Court cannot

interfere with such interim order in view of the law declared by the Apex Court in **Girish Kumar Suneja V. C.B.I**¹, wherein it was held that when there is a bar to entertain a revision under Section 397(2) of Cr.P.C., against an interlocutory order, the High Court cannot exercise its inherent jurisdiction under Section 482 of Cr.P.C., and it amounts to circumventing the law and therefore, the petition is not maintainable. However, the petitioners are directed to appear before the trial Court and file an application under Section 70(2) of Cr.P.C., if advised, after serving notice on the respondent, and on filing such application, the trial Court is directed to dispose of the same on the same day, in accordance with law, after taking into consideration the medical certificate, if any, submitted by petitioners regarding illness of first petitioner.

4. With the above direction, the Criminal Petition is disposed of, at the stage of admission.

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

M. SATYANARAYANA MURTHY, J

12th December, 2017

sj

¹ AIR 2017 SC 3620