

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Criminal Revision Case No.214 of 2018

ORDER:

This Criminal Revision Case is filed by the petitioners/A5 to A10 aggrieved by the order dated 21.10.2017 passed by learned Additional Judicial First Class Magistrate, Markapur issuing NBWs. against the petitioners as well as other accused while taking cognizance of the offences under Sections 27(c), 27(b)(ii), 22(3), 27(d) and 28 of Drugs and Cosmetics Act, 1940.

2) Heard arguments of Sri O.Kailashnath Reddy, learned counsel for petitioners and learned Additional Public Prosecutor.

3) The main plank of argument of learned counsel for petitioners is that while taking cognizance of the offence and registering PRC, the learned Magistrate has directly issued NBWs. against the accused without ordering issuance of summons at the first instance. Drawing attention of this Court to Section 87 Cr.P.C., learned counsel would submit that generally the Court shall issue summons for appearance of any person. However, the Court has power to issue warrant of arrest at the first instance only after recording its reasons in writing. In the instant case, the trial Court without following the said norm has directly issued NBWs. He requested the Court to permit the petitioners to appear before the trial Court and seek for re-call of the

NBWs. and direct the trial Court to pass appropriate orders thereon.

He further submits that petitioner/Accused No.8 viz. T.V.Koti Reddy met with an accident and he is undergoing treatment and hence a long time may be granted to him for appearance before the trial Court.

4) Learned Additional Public Prosecutor has not opposed this course.

5) A perusal of Section 87 Cr.P.C. would show that the Court empowered to issue summons for the appearance of any person, may issue, after recording its reasons in writing, a warrant for his arrest:

(i) If, either before the issue of summons or after the issuance of summons but before the time fixed for appearance, the Court sees reason to believe that he has absconded or will not obey the summons; or

(ii) if at such time he fails to appear and the summons is proved to have been duly served in time to admit of his appearing in accordance therewith and no reasonable excuse is offered for such failure.

6) However, in the instant case, the trial Court has issued NBWs. at the very first instance without recording its reasons for issuing

NBW and thereby not followed the provisions of Section 87 Cr.P.C.
Therefore, the indulgence of this Court is imperative.

7) In the result, CrI.R.C. is allowed and petitioners/A5, A6, A9 and A10 are directed to appear before the Additional Judicial First Class Magistrate, Markapur on or before 20.02.2018 and seek for recall of NBWs. issued against them, in which case the said Court shall re-call NBWs. and proceed with the matter. So far as A7 and A8 are concerned, they are directed to appear before the Additional Judicial First Class Magistrate, Markapur on or before 20.03.2018 and seek for re-call of NBWs and the said Court shall re-call their warrants. Till the appearance of the above accused before the Additional Judicial First Class Magistrate, Markapur the police shall not execute the NBWs.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

U.DURGA PRASAD RAO, J

Date: 06.02.2018

Note: Issue CC by tomorrow.

(b/o)
Murthy