

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

Crl.P. No.7997 OF 2018

ORDER:

This criminal petition is filed under Section 482 Cr.P.C. to quash the order dated 20.07.2018 in Crl.R.P.No.51 of 2018 passed by the Principal Sessions Judge, Kadapa preferred against the order dated 30.10.2017 passed in Crl.M.P.No.5567 of 2017 in C.C.No.481 of 2017 by the I Additional Judicial Magistrate of First Class, Kadapa.

The petitioner filed petition to recall NBW issued on 30.10.2017 under Section 70(2) Cr.P.C. on various grounds, but the Magistrate dismissed the petition by order dated 09.11.2017 assigning reasons. However, the order dated 09.11.2017 was challenged before the Principal Sessions Judge, Kadapa under Section 397 Cr.P.C., but no revision is maintainable against the order passed under Section 70(2) Cr.P.C. Since the order under challenge will not determine the rights of the parties finally and it is purely interlocutory in nature against which no revision is maintainable under Section 397(2) Cr.P.C. Therefore, the revision preferred by the petitioner before the Principal Sessions Judge itself is not maintainable, but the Sessions Judge passed order on merits though the revision is not maintainable against such order. Therefore, the order dated 20.07.2018 passed by the Sessions Judge in Crl.R.P.No.51 of 2018 is hereby set aside as no revision lies against the order passed under Section 70(2) Cr.P.C. as it is an interlocutory.

Though the petitioner sought to recall NBW, unless the order passed by the Magistrate is set aside, this Court cannot pass such order. At the end of the argument, learned counsel for the petitioner requested the Court to permit the petitioner to appear before the Magistrate and file

petition under Section 70(2) Cr.P.C. and direct the Magistrate to pass appropriate order on the same day.

In view of the request made by learned counsel for the petitioner, I deem it appropriate to permit the petitioner to file application under Section 70(2) Cr.P.C.

In the result, the criminal petition is disposed of. However, the petitioner is permitted to file application under Section 70(2) Cr.P.C. and on filing such application, the I Additional Judicial Magistrate of First Class, Kadapa is directed to dispose of the said application on the same day on his appearance in accordance with law

Pending miscellaneous petitions in the petition, if any, shall stand closed.

31.07.2018

Note: issue c.c. tomorrow
b/o
kvrn

M.SATYANARAYANA MURTHY,J