

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.9815 of 2018

ORDER:

This Criminal Petition under Section 482 Cr.P.C. is filed to questioning the Order dt. 06.07.2018 in STC No.108 of 2013 on the file of Judicial First Class Magistrate at Punganur.

Petitioner is the accused in STC No.108 of 2013 pending on the file of Judicial First Class Magistrate at Punganur. At the stage of 313 Cr.P.C. examination, he was absent due to reasons beyond his control and thereafter he filed an application under Section 317 Cr.P.C., and the same was allowed by the Court as per the Order dt. 06.07.2018, but issued NBW against the Accused. The Order Dt. 06.07.2018 as follows:

“ Complainant is absent. Petition is filed and allowed. Accused is absent. No representation. Hence, Issue NBW against the accused on payment of process. Call on 1207.2018”.

The Order itself indicates that the petition was filed and allowed, but recorded that there was no representation. Passing such an order for issuing NBW and the petition to condone his absence was allowed by exercising power under Section 137 Cr.P.C. is a grave illegality committed by the trial Court.

Learned Counsel for the petitioner fairly represented that the petition was rejected even before its registration as Miscellaneous Petition.

In those circumstances, the petitioner/accused is permitted to file an application under Section 70(2) Cr.P.C. and appear before the Court and on appearance, the Magistrate concerned is directed to dispose of the petition within a period of one week in accordance with law.

Accordingly, this Criminal Petition is disposed of.

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

M. SATYANARAYANA MURTHY, J

Date: 14-09-2018.

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