

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

CRIMINAL PETITION No.2688 of 2019

ORDER:

This Criminal Petition is filed seeking a relief to set aside the docket order, dated 17.04.2019, passed in C.C.No.204 of 2018.

The petitioners are accused Nos.1, 3, 4, 5 and 6 in C.C.No.204 of 2018 and the petitioners have appeared before the learned Magistrate. Later on, they were enlarged on bail subject to the condition that they will have to appear before the Court on receiving the summons. The petitioners further contend that, no summons were served on them and the case was called on 17.04.2019 and the lower Court, in spite of recording a finding that summons are not served on the petitioners, had erroneously ordered issuance of Non Bailable Warrants (NBWs) against the petitioners.

Learned counsel for the petitioners submits that, on the one hand the Court below has recorded that summons are not served and on the other hand, the very same Court below had issued NBWs against the petitioners, which is not permissible. Therefore, the learned counsel for the petitioners contends that the orders passed by the Court below on 17.04.2019 are liable to be set aside and the NBWs issued against the petitioners be recalled.

Learned Public Prosecutor fairly concedes that the Court below has issued NBWs without service of summons on the petitioners and, therefore, appropriate orders be passed in the petition.

This Court, having considered the rival submissions made by the parties, is of the considered view that the Court below erred in issuing NBWs against the petitioners without serving the summons on the petitioners. Therefore, the docket order, dated 17.04.2019, insofar as the petitioners herein is concerned, is liable to be set aside and, accordingly, it is set aside. However, the Court below is directed to issue fresh summons to the petitioners so as to enable the petitioners to appear in the case.

With the above observations, the Criminal Petition is allowed. There shall be no order as to costs.

ABHINAND KUMAR SHAVILI, J

08.05.2019

vs