

In Re: Narayana Aiyar

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SooperKanoon Citation : sooperkanoon.com/799356

Court : Chennai

Decided On : Feb-05-1946

Reported in : AIR1947Mad66; (1946)1MLJ448

Appellant : In Re: Narayana Aiyar

Judgement :

ORDER

Kuppuswami Ayyar, J.

1. The petitioner was accused of having committed offences punishable under Sections 323 and 324, Indian Penal Code. The procedure to be followed, in such a case is as in a summons case. But unfortunately the Magistrate happened to issue a bailable warrant and having issued a bailable warrant, when the petitioner sought to have his personal attendance in Court dispensed with, the Magistrate dismissed his application observing that the personal appearance of the accused cannot be dispensed with as in this case the prosecution of the accused was secured after the issue of a bailable warrant. The Magistrate was not justified in taking his stand on an incorrect order of his for refusing the application. Even in a summons case it will be open to the Magistrate to insist upon the personal appearance of the accused. But then he will have to give reasons for the same. Since he has not given any such reason in his order, it is set aside and the petition is remanded to him for considering the question whether there are sufficient grounds in this case for not dispensing with the personal appearance of the

accused in spite of the fact that he committed the error of issuing a bailable warrant instead of treating the case as a summons case.

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