

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No. 144 of 2015

JUDGMENT:-

The present Criminal Revision Case is filed under Sections 397 and 401 Cr.P.C. aggrieved by the order dated 24.11.2014 passed by the learned Additional Judicial Magistrate of First Class at Gudur in CrI.M.P.No.7835 of 2014 in C.C.No.71 of 2009 wherein and whereunder the application filed by the petitioners herein seeking recall of NBWs was dismissed.

The facts in issue are as under:

A charge sheet came to the filed against the petitioners and others for the offences punishable under Sections 406, 463, 465, 464, 465, 418, 420 and 120(B) IPC. The same was taken on file as C.C.No.71 of 2009 on the file of the Additional Judicial Magistrate of First Class at Gudur and later summons were issued to all the accused. In spite of service of summons, the petitioners/A.4 & A.6 failed to appear before the Court and as such non-bailable warrants came to be issued against them. Thereafter, the petitioners moved an application vide CrI.M.P.No.7835 of 2014 seeking recall of the NBWs. By an order dated 24.11.2014 the learned Magistrate dismissed the said application giving liberty to the petitioners to appear before the Court on or before 05.12.2014 and upon such appearance the petitioners were directed to make an application before the Court for grant of bail which will be considered by the Court on the same day. Challenging the same, the present revision is

preferred.

Learned counsel for the petitioners submits that rejection of the application filed by the petitioners seeking recall of NBWs is untenable and the petitioners were on bail pending investigation. The learned Additional Public Prosecutor opposed the revision.

A perusal of the material placed on record would disclose that pending investigation, the petitioners were released on bail by the V Additional District & Sessions Judge, Nellore, vide order dated 06.05.2008 in CrI.M.P.No.450 of 2008. Subsequently, the police completed the investigation and filed charge sheet which was taken on file as C.C.No.71 of 2009 on the file of the Additional Judicial Magistrate of First Class, Gudur. As the petitioners failed to appear before the trial Court inspite of service of summons, the trial Court issued NBWs. Thereafter, the petitioners without appearing before the Court filed CrI.M.P.No.7835 of 2014 in C.C.No.71 of 2009 under Section 70(2) Cr.P.C. seeking recall of the NBWs. By an order dated 24.11.2014, the trial Court dismissed the said application and directed the petitioners to appear before the Court on 05.12.2014 and make an application for grant of bail which shall be considered by the Court on the same day. Since there is a positive direction given by the trial Court, I see no reason to interfere with the impugned order.

Accordingly, the Criminal Revision Case is dismissed. However, the time granted by the trial Court for surrender is extended by ten (10) days from today. Needless to mention that the learned Magistrate shall consider the application to be filed

by the petitioners on the same day.

Consequently, miscellaneous petitions, if any, pending in the criminal revision case shall also stand dismissed.

C. PRAVEEN KUMAR, J

5th February, 2015

Note: Furnish CC in two days.

(b/o)

cbs

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