

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Criminal Petition No.7228 of 2015

ORDER:

This criminal petition under Section 482 of the Code of Criminal Procedure, 1973 ('the Cr.P.C' for brevity) is filed by the petitioner/accused assailing the order dated 12.03.2015 of the learned III Additional Judicial Magistrate of First Class, Rajahmundry passed in CrI.MP.No.896 of 2015 in CC.No.363 of 2014 filed under Section 70(2) of the Cr.P.C requesting to recall the NBW issued against her for her absence before the trial Court on 24.02.2015.

2. Heard the learned counsel for the petitioner/accused and the learned Additional Public Prosecutor representing the 1st respondent/ State. Perused the material record.

3. The case of the petitioner is that on 24.02.2015 to which date the calendar case stood posted before the trial Court, the petitioner was unwell due to enteric fever/bronchitis and that, therefore, she could not attend before the Court and hence, there are no wilful laches on her part and that the trial Court without considering the explanation offered for her absence before the trial Court on the said day had dismissed the petition to recall warrant and that she is an employee of RTC and that if she is arrested, her employment prospects would be affected and that, therefore, it is just and necessary to grant an appropriate order.

4. Having regard to the submissions made in the petition and the submissions now made before this Court, this Court is satisfied that while setting aside the impugned order, the petitioner can be directed to appear before the trial Court and seek recall of warrant or bail.

5. Accordingly, the Criminal Petition is allowed and the impugned

order is set aside with a direction to the petitioner to surrender before the trial Court and move an application for grant of bail, if she so chooses.

And, if any such application is filed, the trial Court may dispose of the same on the same day on merits and in accordance with the procedure established by law.

Miscellaneous petitions, pending if any, in this criminal petition shall stand closed.

M.SEETHARAMA MURTI, J

17th August 2015
Vjl