

THE HONOURABLE SRI JUSTICE M.S.K.JAISWAL

CRIMINAL REVISION CASE No.2991 of 2015

ORDER:

This revision is filed against the docket order, dated 13.01.2015, in CrI.M.P.No.... of 2014 in C.C.No.502 of 2014 passed by the V Metropolitan Magistrate, Anakapalli.

The aforesaid M.P filed under Section 70 (2) Cr.P.C. to recall the N.B.W. issued against the petitioner/A.4, was returned on the ground that the petition is not maintainable. Challenging the same, the present revision is filed.

The *de facto* complainant Geetha Lakshmi filed a complaint alleging that her marriage with non petitioner A.1 was performed on 14.02.2014. Later, the *de facto* complainant came to know about cheating made by A.1, his parents and the petitioner/A.4, who acted as mediator for settlement of the marriage. Non petitioners- A.1 to A.3 harassed the *de facto* complainant both physically and mentally, and unable to bear the said harassment, the *de facto* complainant left the matrimonial house and filed the present complaint. Police after conducting investigation, filed charge sheet showing the accused as A.1 to A.4 and cognizance was taken by the Court below. Since the petitioner-A.4 was shown absconding, Non-bailable warrant was issued against him.

The ground on which the petition is dismissed as not maintainable is that the petitioner is absconding. Simply when the petitioner/A.4 is shown in the charge sheet as absconding and once the Court issued warrant, the only remedy to the petitioner is to approach the Court under Section 70 (2) Cr.P.C. and seek recall of the warrant. In the present case the same appears to have happened. Thereafter, it is open to the learned Magistrate to recall the warrant on any condition as he deems fit. But, rejecting the petition as not maintainable is not proper.

In that view of the matter, the revision petition is allowed setting aside the docket order, dated 13.01.2015, in CrI.M.P.No..... of 2014 in C.C.No.502 of 2014 passed by the V Metropolitan Magistrate, Anakapalli, and the petitioner/A.4 is directed to file a fresh petition before the Court below for recalling of the warrant and thereafter, the learned Magistrate shall recall the warrant on execution a personal bond of Rs.10,000/- (Rupees thousand only) with two sureties like a sum each to the

satisfaction of the V Metropolitan Magistrate, Anakapalle, Visakhapatnam.

M.S.K JAISWAL, J

November 30, 2015

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