

1HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.9532 of 2015

ORDER :

This Criminal Petition is filed by the Petitioners/ accused Nos.1 and 2 under Section 482 Cr.P.C seeking to quash the proceedings in C.C. No.545 of 2012 on the file of V Additional Judicial Magistrate of First Class, Nellore, where the learned Magistrate has taken cognizance for the offence punishable under Sections 120-B, 406, 419, 420 r/w 34 IPC and Section 25 of Indian Arms Act, which is outcome of report of 2nd respondent—de facto complainant in Crime No.237 of 2011 of V Town Police Station, Nellore.

2) Heard learned counsel for the petitioners/ accused Nos.1 and 2 as well as 1st respondent—State represented by learned Public Prosecutor before admission and before ordering notice to 2nd respondent—de facto complainant. Perused the material on record.

3) The accused are in abscondance and NBWs are pending. The contention of the learned counsel for the petitioners is that they were arrested and seizure was made of their own accounts and the cognizance order taken by the Court is unsustainable and that after filing charge sheet NBWs were obtained.

4) In fact even from the very submission of the learned public prosecutor that once they were arrested the question of their coming out arises only on bail and also giving of NBWs, once they were enlarged on bail committed breach of terms of bail conditions of solvency.

5) The case is of the year 2012 stalled progress for appearance of the accused practically at their own fault and that is clear even they are approaching the Court in issuing NBWs pending against them. Needless to say as per chapter-33 of Cr.P.C. Once the bail is obtained subject to conditions and any bond is executed for due appearance of the accused and by the sureties to produce even any non appearance the bond is prone to penalty including to recover the personal bond amount for the accused. It is needless to say once

the accused breached the warrant against it need not be to enforce the sureties. As can be seen from the records there is no further progress but for the pending NBWs had executed even from the submission of the learned public prosecutor. It is needless to say the mere issuance of NBWs or even execution of bonds and its cancellation or forfeiture does not amount to cancellation of bail under Section 439 (2) and 437 (5) Cr.P.C.

6) Having regard to the above to sub-serve the ends of justice and progress of the case, this Court feels to dispose of the Criminal Petition before admission and directing the petitioners to appear before the learned Magistrate personally and pay the penalty of the bond being forfeited by virtue of this order of the learned Magistrate which they executed earlier for their absence and to execute fresh bonds for their future due appearance.

7) Accordingly, the Criminal Petition is disposed of.

8) Miscellaneous petitions, if any pending in this Criminal Petition, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Dt.13.10.2015

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HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

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Date:13.10.2015

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