

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.2442 of 2016

ORDER:

1) The present revision is filed under Sections 397 read with 401 Cr.P.C. against the docket order dated 21.09.2016 passed in CrI.M.P.No. of 2016 in C.C.No.320 of 2015 on the file of the Judicial Magistrate of First Class, Udayagiri, wherein an application filed by the petitioner was returned stating that how the same is maintainable in view of pendency of the non-bailable warrant against the petitioner.

2) As seen from the record, the petitioner was tried in C.C.No.320 of 2015 before the Judicial Magistrate of First Class, Udayagiri, for an offence punishable under Section 138 read with 142 of the Negotiable Instruments Act, 1881. The learned Magistrate convicted the petitioner and sentenced him to suffer simple imprisonment for a period of 1 ½ year apart from directing him to pay compensation of Rs.3,00,000/-. Since the petitioner was not present in the Court on the date of judgment, the learned Magistrate issued non-bailable warrant against the petitioner. Subsequently, on 21.09.2016, the petitioner filed an application under Section 70 (2) of Cr.P.C. before the Judicial Magistrate of First Class, Udayagiri. The learned Magistrate returned the application stating how the said petition is maintainable before the said Court, since non-bailable warrant was issued against the accused after pronouncement of the judgment. Thereafter, the petitioner filed an appeal before the

Sessions Court, but the Sessions Judge, returned the said appeal on maintainability in view of pendency of non-bailable warrants.

3) Learned counsel for the petitioner submits that the petitioner could not attend the trial Court on the date of judgment as his father expired couple of days prior to the date of judgment. He further submits that the absence of the petitioner is neither wilful nor wanton. He submits that immediately after coming to know about the same he filed an application under Section 70 (2) of Cr.P.C. seeking recall of warrant which was returned as not maintainable. He also submits that the appeal filed by the petitioner was also returned.

4) Having regard to the facts and circumstances of the case and since the appeal filed by the petitioner is returned, the petitioner shall surrender before the trial Court within one week from today and make an application for bail, in which event the said Court shall deal with the same in accordance with law. It is needless to mention that if the petitioner is aggrieved by the judgment of the trial Court, he can file an appeal before the appellate Court.

5) With the above direction the Criminal Revision Case is disposed of. Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE C. PRAVEEN KUMAR

27.09.2016

Note: Issue C.C. in two days.

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