

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

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CRIMINAL REVISION CASE No.990 OF 2016

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ORDER:

Heard learned counsel for the petitioner and learned counsel for the 1st respondent.

2. Assailing the order dated 05.03.2016 passed in CrI.M.P.SR.No.762 of 2016 in C.C.No.354 of 2015 on the file of XIV Special Magistrate, Erramanzil, Hyderabad, the present Revision came to be filed by the petitioner.

3. The respondent-Complainant filed a private complaint against the petitioner and others for the offence punishable under Section 138 of Negotiable Instruments Act, 1881.

4. Pending the said application, the petitioner filed CrI.P.No.13464 of 2015 under Section 482 of Code of Criminal Procedure, to quash the proceedings initiated against the petitioner and others in C.C.No.354 of 2015. On 23.02.2016 this Hon'ble Court while rejecting the request of the petitioner and others passed the following order :

“In that view of the matter, as the identity of the petitioners herein is not in dispute, the presence of the petitioners is dispensed with before the trial Court except on the dates when their presence is essentially required by the Court for the purpose of examination under Section 251 Cr.P.C. and also for 313 Cr.P.C. examination. The petitioners herein shall be represented by their counsel before the trial Court on all hearing dates.”

5. While things stood thus, on 22.02.2016 the trial Court issued Non Bailable Warrant against the petitioner due to the absence of the petitioner. Thereafter, the petitioner herein filed a petition under Section 70 (2) of Cr.P.C., for recall of warrant issued against her on 22.02.2016 which was returned on 24.02.2016, stating as to how the same is maintainable in the absence of petitioner before the Court. However after

considering the rival claims, the trial Court rejected the request of the petitioner. Challenging the same, present revision is filed.

6. In view of the order of this Court dated 23.02.2016, dispensing with the presence of the petitioner herein, issuance of Non-bailable warrant is in correct. Learned counsel for the petitioner submits that the petitioner is willing to abide by any conditions imposed by this Court.

7. Learned counsel for the 1st respondent opposed the same contending that the order came to be passed on 23.02.2016 and even prior to it, the petitioner did not appear before the trial Court and hence, in that circumstances the Court was forced to issue Non-Bailable warrant against the petitioner.

8. As seen from the record this Court by an order dated 23.02.2016 dispensed with the presence of the petitioner except on the dates required i.e., for the purpose of examination under Section 251 Cr.P.C., and under Section 313 Cr.P.C.

9. Having regard to the facts and circumstances of the case, and without going into the merits, the present criminal revision is disposed of, directing the petitioner to appear before the concerned Court on 19.04.2016, in which event, the Court shall recall the warrant, and if possible, examine the petitioner and proceed in accordance with the earlier order passed by this Court. Till such time, execution of Non-bailable warrant shall remain stayed.

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

JUSTICE C. PRAVEEN KUMAR

11.04.2016

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Dated : 11.04.2016

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