

THE HON'BLE SRI JUSTICE RAJA ELANGO

Criminal Petition No.5303 of 2016

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C. seeking to challenge the order dated 06-04-2016 in Crl.M.P.No.786 of 2016 in C.C.No.358 of 2013 passed by the learned Judicial Magistrate of First Class, Chirala and to recall Non-bailable warrant issued on 11-05-2015 against the petitioner.

Heard and perused the material available on record.

The petitioner herein is the accused-1 in C.C.No.358 of 2013 pending on the file of Additional Junior Civil Judge, Chirala. On 11.05.2015, when the petitioner/A-1 was called absent, the learned Magistrate issued Non-bailable warrant by dismissing the condone petition for his absence. Thereafter, the petitioner/A-1 filed Crl.M.P.No.786 of 2016 seeking to recall NBW issued against him, but the learned Magistrate, considering the facts and circumstances therein, dismissed the petition on 06-04-2016. Challenging the said order, the present criminal petition has been filed.

Having regard to the facts and circumstances of the case and considering the submissions made by the learned counsel for the petitioner before this Court, without expressing any opinion on the merits of the case, this Court is of the view that it would suffice to direct the petitioner/A-1 to surrender before the

concerned Court and file a petition for recalling the warrant.

Therefore, the petitioner/A-1 is directed to surrender before the Court where the case is pending and file a fresh application under Section 70 (2) Cr.P.C. seeking to recall NBW issued against him and on filing of such application, the concerned Court shall consider the same on the same day and pass appropriate orders for his future appearance in the case in accordance with law. Till such orders are passed, the Non-bailable warrant issued against the petitioner is concerned is stayed.

Accordingly, the criminal petition is disposed of. Consequently, miscellaneous petitions, if any, pending, shall stand closed.

RAJA ELANGO, J

Date: 18-04-2016

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