

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL REVISION CASE No.2642 OF 2016

ORDER:

This Criminal Revision Case is filed under Sections 397 and 401 of Cr.P.C. challenging the docket order dated 09.08.2016 passed in C.C.No.224 of 2015 on the file of the Court of the II Additional Judicial Magistrate of First Class at Khammam.

2. Heard the learned counsel for the petitioner.

3. A perusal of the record reveals that the petitioner has given an undertaking before the trial Court on 26.07.2016 that he will pay an amount of Rs.2,00,000/- on or before 01.08.2016. For one reason or other, the petitioner did not pay the said amount. On 09.08.2016 the petitioner did not appear before the trial court. The trial Court dismissed the petition filed by the petitioner under Section 317 Cr.P.C. and issued **Non-Bailable** Warrant (N.B.W.).

4. Learned counsel for the petitioner submitted that while exercising the jurisdiction under Sections 397 and 401 Cr.P.C., this Court can recall the N.B.W. issued against the petitioner.

5. In order to appreciate the contention of the learned counsel for the petitioner, it is not out of place to extract Section 70(2) Cr.P.C., which reads as follows:

“70(2) Every such warrant shall remain in force until it is cancelled by the Court which issued it, or until it is executed.”

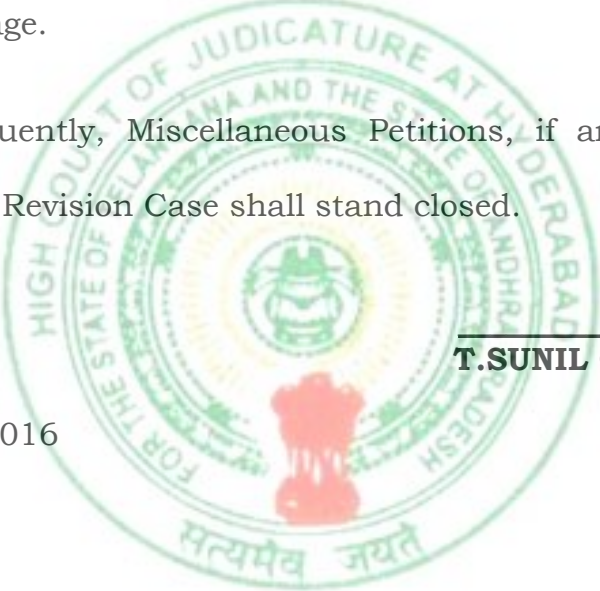
A perusal of the same clearly demonstrates that the Court which issued N.B.W. alone is entitled to recall the same.

6. For one reason or other, the petitioner did not choose to file a petition before the trial Court with a request to recall the N.B.W. issued against him. The petitioner without exhausting the remedy available to him approached this Court. There is no illegality, irregularity or impropriety in the order passed by the trial Court.

7. Having regard to the facts and circumstances of the case, I am of the considered view that there are no grounds to interfere with the order passed by the trial Court.

8. Accordingly, the Criminal Revision Case is dismissed at the admission stage.

9. Consequently, Miscellaneous Petitions, if any, pending in this Criminal Revision Case shall stand closed.



T.SUNIL CHOWDARY, J

Date: 24.10.2016
Ivd