

HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.15186 OF 2016

ORDER:

This Criminal Petition is filed to quash the orders dated 9-9-2016 passed in CrI.M.P.No.1822 of 2016 in C.c.No.109 of 2015 on the file of XVI Special Magistrate, Hyderabad dismissing the petition filed under Section 70 (2) Cr.P.C.to recall non-bailable warrant.

Respondents 2 and 3 filed a complaint before the XVI Special Magistrate at Hyderabad for the offence punishable under Section 138 of Negotiable Instruments Act and during trial, the petitioners/accused were absent and thereupon the trial court issued warrant and hence, they filed a petition under Section 70 (2) of Cr.P.C. before the said Magistrate to recall warrant, explaining the reasons for their absence on 9-9-2016 and thereby, the trial court dismissed the petition due to their absence.

When the petitioners filed petition under Section 70 (2), they have to appear and seek for recall of the non-bailable warrant explaining the reasons subject to the satisfaction of the Magistrate concerned. But filing the petition and avoiding to appear before the court is nothing but circumventing law.

Dismissal of petition by the concerned Magistrate cannot be found fault. However, the petitioners are permitted to appear before

the XVI Special Magistrate, Hyderabad and file appropriate application to recall non-bailable warrant under Section 70(2) of Cr.P.C. after issuing notice to the respondent and on filing such application, the XVI Special Magistrate, Hyderabad, is directed to decide the said application on the same day itself.

Accordingly, this Criminal Petition is disposed of.

As a sequel to the disposal of this petition, the Miscellaneous Petitions, if any, pending, shall stand dismissed.

---

JUSTICE M.SATYANARAYANA MURTHY

Dated 26-10-2016.

Dvs.



HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY



CRIMINAL PETITION No.15186 OF 2016

Dated 26-10-2016.

Dvs