

THE HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

CRIMINAL REVISION CASE No.2049 of 2017

ORDER:

This Criminal Revision Case, under Sections 397 and 401 of the Code of Criminal Procedure, 1973, ('the Code', for brevity), by the petitioner/accused, is directed against the docket order, dated 07.06.2017, of the learned Judicial Magistrate of First Class, Miryalguda, passed in CrI.M.P.No.1166 of 2017 in C.C.No.1352 of 2015.

2. I have heard the submissions of Sri A.Ramakrishna, learned counsel for the petitioner/accused and of the learned Public Prosecutor for the State of Telangana representing the sole respondent. I have perused the material record.

3. The facts of the case as per the submissions and as borne out by the record, in brief, are as follows:-

The petitioner is the accused in C.C.No.1352 of 2015. He is facing trial for the offences punishable under Section 138 of the Negotiable Instruments Act, 1881, and Section 420 of the Indian Penal Code, 1860,. In the pending Calendar Case, when a Non Bailable Warrant was issued against him by the Court below, he filed the afore-stated miscellaneous petition for recalling the same. The trial Court dismissed the said petition *inter alia* observing that the case is not a fit case to recall the Non Bailable Warrant without insisting for the presence of the petitioner/accused at the time of hearing of the said petition. Aggrieved thereof, the petitioner/accused is before this Court.

4. At the hearing, the learned counsel for the petitioner would submit that there are catenae of decisions laying down the settled legal position that the presence of the petitioner/accused is not required at the time of hearing of the petition filed for recall of the Non Bailable Warrant. Be that as it may.

5. The learned Public Prosecutor for the State of Telangana representing the sole respondent would support the orders of the Court below stating that the trial Court is justified in insisting for the presence of the petitioner/accused at the time of disposal of the miscellaneous petition filed for recalling the Non Bailable Warrant, as he was absconding since a long time.

6. The learned counsel for the petitioner/accused, in reply, would submit that in the petition filed for recall of Non Bailable Warrant, a valid explanation was offered for the earlier absence of the petitioner/accused and that there are no wilful laches on his part in not attending before the Court below on the earlier date of adjournment on which date the Non Bailable Warrant was issued.

7. Having regard to the facts and submissions, this Court is of the considered view that this Criminal Revision Case can be disposed of at the stage of admission with appropriate directions.

8. Accordingly, the Criminal Revision Case is allowed and the impugned order is set aside. The petitioner is given liberty to file a fresh application before the trial Court for recall of Non Bailable Warrant giving valid reasons in support of the said request. On the petitioner/accused

filing the said application as directed, the trial Court shall dispose of the same in accordance with the procedure established by law, without insisting upon the presence of the petitioner/accused at the time of hearing and disposal of the said petition. As a sequel to this order, the Non Bailable Warrant issued against the petitioner/accused shall remain in abeyance till the fresh application that may be filed by the petitioner/accused, as directed in this order, is disposed of by the trial Court, as directed. The petitioner is directed to appear before the trial Court on 26.07.2017 without fail and file the fresh appropriate application as directed supra.

Miscellaneous petitions, if any, pending in this Criminal Revision Case, shall stand closed.

21st July, 2017

Note:-
Furnish C.C. today.
(B/O)
Bvv



M.Seetharama Murti, J