

THE HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

CRIMINAL REVISION CASE No.1653 of 2017

ORDER:

This Criminal Revision Case, under Sections 397 and 401 of the Code of Criminal Procedure, 1973, ('the Code', for brevity) is filed by the petitioners/accused Nos.2 and 3, assailing the order, dated 18.04.2017, of the learned I Additional Sessions Judge, Kurnool, passed in CrI.M.P.No.161 of 2017 in N.D.P.S.No.6 of 2014 (Crime No.63 of 2014 of Atmakur Police Station).

2. I have heard the submissions of the learned counsel for the petitioners/accused Nos.2 and 3 and of the learned Public Prosecutor for the State of Andhra Pradesh representing the sole respondent at the stage of admission. I have perused the material record.

3. By the order impugned, the learned I Additional Sessions Judge, Kurnool, dismissed the application of the petitioners filed under Section 70 (2) of the Code for recalling of the Non Bailable Warrants issued against them. Therefore, the petitioners are before this Court.

4. At the hearing, the learned counsel for the petitioners would submit as follows:-

'The subject miscellaneous petition was filed, by giving valid explanation for their earlier absence before the trial Court and making a request to recall the Non Bailable Warrants issued against the petitioners. But, the trial Court erroneously dismissed the said petition holding *inter alia* that their absence is intentional and that they failed to produce any

medical certificates in support of their contentions that they suffered illness till they filed the application for recalling of the Non Bailable Warrants. The petitioners are coolies and they eke out their livelihoods by on their daily wages. Their family members are dependent upon them and they are the breadwinners of their families. Unless the Non Bailable Warrants issued against them are recalled and an opportunity is given to them to appear before the trial Court and participate in the hearings and the trial, they suffer serious and irreparable loss.'

5. The learned Public Prosecutor for the State of Andhra Pradesh appearing for the sole respondent submits that the case was posted to 07.09.2016 before the trial Court for fixing the trial schedule and that the petitioners herein failed to attend before the trial Court and that as they were absconding since the said date, the trial Court was justified in passing the impugned order.

6. However, the learned counsel for the petitioners, while reiterating the case of the petitioners, would urge that an opportunity may be given to the petitioners to appear before the trial Court and that the petitioners are prepared to abide by any conditions that may be imposed by this Court while recalling the Non Bailable Warrants issued against them.

7. Having regard to the facts and submissions, this Court is of the considered view that one more fair opportunity can be given to the petitioners to make amends and appear before the trial Court and participate in the trial.

8. In the result, the Criminal Revision Case is allowed and the order impugned is set aside and the Non Bailable Warrants issued by the trial Court against the petitioners/accused Nos.2 and 3 are recalled subject to the condition that the petitioners shall appear before the trial court on the next date of hearing. Having regard to the facts and circumstances, the trial Court, in its discretion, may, if necessary, obtain fresh additional surety bonds from the petitioners herein/accused Nos.2 and 3 for a sum of Rs.20,000/- (Rupees twenty thousand only) with two sureties each in a like sum each by ensuring that out of the two sureties, one surety shall be a family member and the other, a local surety.

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



M.Seetharama Murthi, J

04<sup>th</sup> July, 2017

Note:-

Furnish C.C. by 05.07.2017

(B/O)

Bvv