

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

CRIMINAL REVISION CASE No.2058 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 order, dated 08.06.2017, of the learned VI Additional Sessions Judge-cum-Sessions Judge, Mahila Court, Visakhapatnam, passed in CrI.M.P.No.253 of 2017 in S.C.No.40 of 2011.

2. I have heard the submissions of *Sri K. Chidambaram*, learned counsel for the petitioner/ accused and of the learned Public Prosecutor (AP) representing the respondent-State. I have perused the material record.

3. The facts, in a nutshell, are as follows: - 'The petitioner is the accused in the afore-said Sessions Case. He is facing trial for the offence punishable under Section 354 of IPC. While the Sessions Case is at the stage of arguments, on 31.05.2017, for the absence of the petitioner-accused before the Court of the learned VI Additional Sessions Judge, a Non-Bailable Warrant was issued against him after dismissing the application filed by the petitioner for dispensing with his presence on that day; in the said petition, the petitioner-accused pleaded that he is unable to attend before the trial Court on that day due to his illness. However, since NBW was issued, CrI.MP.No.253 of 2017 was filed subsequently, for recalling the NBW. The trial Court, considering the previous conduct of the petitioner with regard to his non attendance before it and being not satisfied with the reason assigned in the petition for recalling of the NBW, dismissed the petition. Aggrieved thereof, the petitioner-accused is before this Court.'

4. Learned counsel for the petitioner submits that the petitioner also produced a medical certificate in support of the submission that he suffered illness on the date on which he sought for dispensing with his presence before

the Court of Session and that the counsel for the petitioner was indeed ready for advancing arguments and that the absence of the petitioner before the Court of Session is neither wilful nor wanton. He would further submit that the petitioner-accused undertakes to appear before the Court of Session, on 18.08.2017, and would report ready for submission of arguments in the Sessions Case.

Learned Public Prosecutor, while supporting the orders of the trial Court, would submit that the trial Court is justified in passing the impugned order.

Having regard to the facts and submissions, this Court is satisfied that the revision case can be disposed of at the stage of admission with appropriate directions.

In the result, the Criminal Revision Case is allowed and the order impugned is set aside directing the petitioner to appear without fail before the trial Court in S.C.No.40 of 2011, on 18.08.2017, as undertaken before this Court, and duly instruct his counsel to report ready for advancing arguments in the Sessions Case. On the petitioner appearing before the trial Court as undertaken and as directed supra, the NBW shall stand recalled. As a sequel to this order, the Non Bailable Warrant issued against the petitioner/ accused shall remain in abeyance till 18.08.2017. It is made clear that on failure of the petitioner-accused to appear before the trial Court, on 18.08.2017, the revision case shall stand dismissed and the order of the learned Additional Sessions Judge shall stand revived.

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

M. SEETHARAMA MURTI, J

21st July, 2017
Vjl