

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.844 OF 2017

ORDER:

The present Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Code'), requesting to quash the Non Bailable Warrant (NBW) issued by the learned Special Judicial Magistrate of First Class Mobile (PCR) Court, Adilabad against the petitioner herein on the main ground that he is a mentally challenged person.

The petitioner herein is arraigned as accused No.1 in Calendar Case No.98 of 2015 (Old C.C. No.165 of 2011) and alleged to have committed the offences punishable under Sections 467, 468, 471 and 420 read with 34 IPC along with accused Nos.2 and 3 to 7.

Sri G. Surapu Naidu, learned counsel for the petitioner, would submit that the Medical Board of Institute of Mental Health, Hyderabad, issued certificate, dated 20.06.2014, stating that the petitioner suffers 50% mental illness, and a Professor of Psychiatry, Dr. J. Mayurnath Reddy, issued certificate, dated 14.11.2014, to the effect that the petitioner is mentally retarded person and cannot travel without an escort and, therefore, seeks to quash the NBW issued.

The learned counsel has drawn the attention to the petition filed by the petitioner under Section 328 of the Code before the learned

Magistrate, wherein while referring to the aforesaid two certificates and NBW issued by the Court, sought to delete the name of petitioner from the list of the accused.

A perusal of that petition would show that the learned Magistrate ordered on the office note thereof, returning it to comply with the objection of affixing the court fee on the certificate of disability. Instead of complying with the objection raised by the learned Magistrate, the petitioner has rushed to this Court.

The learned counsel would submit that the procedure contemplated by the provisions of Section 328 of the Code and the other provisions of Chapter XXV of the Code ought to be followed by the learned Magistrate. In fact, that stage is not reached. Unless the application is resubmitted complying with the objection, it cannot be said whether to comply the provisions of Chapter XXV of the Code or otherwise can be decided. One thing is pertinent to mention here, that it is really strange and un-understandable as to how a mentally challenged person files such a petition without somebody representing him. Thus, even there is an infirmity in describing himself and approaching the Court. It may even go to the extent of belying the stand he has taken that he is mentally retarded person. Viewed from this circumstance, certainly, the relief sought for by the petitioner cannot be acceded.

Therefore, the present Criminal Petition is dismissed at the admission stage itself. However, it is open to the petitioner, in case somebody, who is interested in him, requires to approach the learned Magistrate complying with the query raised by it and then to make a request to invoke the provisions of Chapter XXV of the Code and the learned Magistrate in such an event may decide such a request in accordance with law. As a sequel thereto, Miscellaneous Petitions, if any, pending in the petition, stand closed.

February 03, 2017.
Mgr

A. SHANKAR NARAYANA, J

