

HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

CRIMINAL REVISION CASE No.1986 of 2017

ORDER:

This Criminal Revision Case, under Sections 397 and 401 of the Code of Criminal Procedure, 1973, (for brevity 'the Code'), is filed by the petitioners/accused Nos.1 and 2, having been aggrieved of the docket order dated 08.12.2016 passed by the learned Special Magistrate-cum-VI Additional Junior Civil Judge, Tirupati, passed in CrI.M.P.No.2207 of 2016 in S.T.C.No.26 of 2016 (Old C.C.No.244 of 2015), whereby the said miscellaneous petition was dismissed on the ground that there was no representation.

2. I have heard the submissions of the learned counsel for the petitioners and the learned Public Prosecutor for the State of Andhra Pradesh representing the 1st respondent-State, at the stage of admission and perused the material record.

3. The grievance of the petitioners, according to the submissions of the learned counsel appearing for them, is as under:

The case was originally filed on the file of the Court of the learned II Additional Judicial Magistrate of First Class, Tirupati. Later, the above case was transferred to the Court of learned Special Magistrate-cum-VI Additional Junior Civil Judge, Tirupati, and was renumbered as S.T.C.No.26 of 2016. Due to their serious illnesses of both the petitioners, who are husband and wife, could not move out of the bed and could not appear before the trial Court on the date of hearing. Therefore, their aforesaid miscellaneous petition was dismissed for non representation and non prosecution. There are no wilful laches on their part in not attending before the trial Court and their absence before the trial Court on the date of hearing is neither

wilful nor wanton. In the circumstances, they may be granted an opportunity to appear before the trial Court by recalling the Non-Bailable Warrants, which were issued against them.'

4. Having regard to the submissions, this Court is of the considered view that this Criminal Revision Case can be disposed of at the stage of admission by granting appropriate relief.

5. In the result, the Criminal Revision Case is allowed and the order impugned is set aside and the Non-Bailable Warrants issued against the petitioners/Accused Nos.1 and 2 are recalled subject to the condition that the petitioners/Accused Nos.1 and 2 shall appear before the trial Court, without fail, on 14.07.2017. It is made clear that on failure of the petitioners to appear before the trial Court as undertaken and as directed in this order, the trial Court shall be at liberty to proceed against them in accordance with the procedure established by law. It is needless to state that on their appearance before the trial Court on the said date, the trial Court shall proceed with the hearing/trial of the case as per the procedure established by law.

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

M. SEETHARAMA MURTI, J

13.07.2017

NOTE: Issue C.C. today.
(B/O)
Msr

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(Msr)