

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL REVISION CASE No.300 OF 2017

ORDER:

The revision petitioner—Abdul Qayyum @Abdul Kareem Sheikh, is the accused No.1 among more than seven accused in PRC No.12 of 2011 on the file of the VI Additional Chief Metropolitan Magistrate at Hyderabad, which is outcome of Crime No.30 of 2011 of Langer House Police Station, Hyderabad registered for the offences punishable under Sections 398, 364(A) r/ w 511 IPC, 120 (B) IPC and Section 25 (i) (a) of Arms Act and Section 7 (1) of Criminal Amendment Act. After investigation, police filed final report showing A-1 is in Chenchalguda Jail by that time and was already produced on P.T. Warrant on 03.02.2011 and A-2 to A-5 were arrested and produced before the Court for Judicial remand on 27.01.2011 and A-6 and A-7 were in abscondance and their whereabouts are yet to be traced.

2) The cognizance was taken by the learned committal Magistrate and allotted PRC No.12 of 2011 by proceeding under Section 209 Cr.P.C subject to compliance of the requirements of clauses (a) to (d). Clause (b) relating to bail, remand the accused to custody during, and until the conclusion of, the trial.

3) It is in the process of committing a case to the Court of Sessions where it appears to be Magistrate after post cognizance under Section 190 Cr.P.C in the proceedings under Section 209 Cr.P.C of case triable by Court of Sessions. The charge sheet shows that A-1 was in Chenchalguda Jail. There is nothing revealed from the order

of the Court below that the accused was granted bail for this cause atleast in connected cases if any and there also if at all obtained bail to come out to issue any NBW invoking Section 209 (b) or Section 70 Cr.P.C.

4) It is at that stage, impugning the said NBW issued, the petitioner/ Accused filed an application in Crl.M.P. No.1153 of 2016 before the learned committal Magistrate cum VIII Additional Chief Metropolitan Magistrate of VI Additional Chief Metropolitan Magistrate, Hyderabad and the said petition speaks for cancellation of NBW issued against him on 12.09.2016 in saying he was lodged in Arthur Road Central Prison, Mumbai since 15.10.2011 in connection with case No.BBC 1B of 1993 pursuant to the directions of the Apex Court for expeditious trial and disposal, where he was accused No.141 and the said case is at fag end for final arguments for disposal before the Sessions Court at Greater Mumbai and earlier he was lodged in Chenchalguda Jail, Hyderabad in connection Sessions Case No.600 of 2010, which is outcome of Crime No.76 of 211 and PRC No.15 of 2009 of Jubilee Hills Police Station and he was acquitted therein by the III Metropolitan Sessions Judge, Hyderabad on 09.05.2011 and he was granted bail by this Court at the relevant point of time and subsequently he could not attend the Court as he was lodged in Arthur Road Central Prison Mumbai in connection with referred case and there is no willful default in non-attending the Court but for he is in Arthur Road Central prison, hence to cancel the NBW. This application as per the docket order of the learned

committal Magistrate dated 13.05.2016 was dismissed with observation that as accused absent.

5) The facts fairly show from the application that accused was in Arthur Road Central Prison, Mumbai in connection with Criminal Case No.BBC 1B of 1993. Once such is the case, his not attending the Court or non-compliance of the order does not arise but for if at all to proceed further to commit the case to the Court of Sessions under Section 209 Cr.P.C. Remedy open to the learned committal Magistrate is to invoke Section 267 Cr.P.C to issue P.T warrant for production of the accused from the Arthur Road Central Prison, Mumbai to this Court.

6) As the facts show pursuant to the Apex Court's direction for expeditious disposal of the Criminal Case No.BBC 1B of 1993, which is at the fag end of arguments, the learned Magistrate can issue production warrant without release of the accused in that BBC 1B of 1993 case, if the case purpose is completed either ended in conviction on bail or even on acquittal but for to produce before the learned Magistrate herein i.e., VIII Additional Chief Metropolitan Magistrate, pursuant to the said P.T warrant.

7) With these observations, the revision is disposed of before admission. As a sequel, miscellaneous petitions if any pending shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Dt.08.02.2017
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