

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL REVISION CASE No.465 of 2017

ORDER :

Impugning dismissal of N.B.W. recall application, by order dated 20.01.2017 in CrI.M.P.No.413 of 2017 in C.C.No.170 of 2009 passed by the learned XI Additional Chief Metropolitan Magistrate, Secunderabad, present revision is filed by petitioner/ accused.

2. The revision is practically not maintainable, but for, this Court taken the same under Section 482 Cr.P.C. A perusal of the order shows for the offence under Section 379 I.P.C., the accused was already enlarged on bail, on remand, pursuant to the production or appearance was brought before the lower Court, as the case may be. It is for the subsequent absence, by non-compliance with the personal bond with sureties, N.B.W. issued and the recall application filed was ended in dismissal, for lack of bonafides.

3. Once bail is not cancelled by specific order, either under Section 437(5) or Section 439(2) Cr.P.C., same will ensure till end of trial and even in case of acquittal, there is a need of obtaining undertaking to appear in the event of revision or appeal before the superior Court, as per the amended provision 437(A) Cr.P.C. Thus, the only thing to consider is for earlier non-appearance, the bonds are liable to be forfeited and penalty

to be imposed and fresh bonds to be obtained as sureties failed to produce the accused for the earlier adjournments, pursuant to their undertaking in the bonds, which resulted in NBW to issue and dismissal of the recall application.

4. Having regard to the above, the Criminal Revision Case is disposed of by upholding the dismissal of NBW recall application, for the remedy of the petitioner is to appear before the Court and pay penalty to be imposed on the earlier bonds to be forfeited by the lower Court and in the event of payment of such penalty on the earlier bond forfeited, no further proceedings against sureties of earlier bonds are required, but for obtaining of fresh bonds pursuant to the bail order in force, to release him on same day.

5. Miscellaneous petitions, pending if any, shall stand closed.

Date: 27-02-2017

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Dr. B. SIVA SANKARA RAO, J