

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.1569 OF 2017

ORDER :

The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C.') requesting to quash the order dated 26.08.2016, on the file of the III-Additional Chief Metropolitan Magistrate, Hyderabad.

2. Heard Sri G. Narender Raj, learned counsel for the petitioners and learned Additional Public Prosecutor for the State of Telangana.

3. The order passed by the learned Magistrate reads thus:

"Dated: 26-08-2016:

Accused are absent and their attendance is dispensed with.

Accused should appear and there is no stay, call on 23-11-2016."

4. The learned counsel drawn the attention to the order passed by this Court, dated 24.04.2015, in Criminal Petition No.3216 of 2015, and by the said order, this Court granted interim stay as prayed for.

5. The prayer made by the petitioners in Crl.P.M.P.No.3414 of 2015 in Crl.P.No.3216 of 2015, reads thus:

"Petition under Section 482 of Cr.P.C., praying that in the circumstances stated in the memo of grounds file in the Crl.P., the High Court may be pleased to stay all further proceedings in CC.No.283 of 2012 on the file of the learned III-Additional Chief Metropolitan Magistrate, Hyderabad, dispensing with personal appearance of the accused, pending disposal of Crl.P.No.3216 of 2015 on the file of the High Court."

6. As could be seen from the docket orders, the learned III-Additional Chief Metropolitan Magistrate, Hyderabad, though, on 11.06.2016 has issued Non-Bailable Warrants, on the same day itself recalled the Non-Bailable Warrants when the learned counsel on record brought to his notice about stay granted by this Court on 24.04.2015 and then the learned Magistrate posted the matter to 28.01.2016. Again, somehow, on 28.01.2016, the learned Magistrate has recorded that the stay is pending and adjourned the matter to 24.03.2016, by mentioning therein to address a letter to the High Court. On 26.08.2016, the learned Magistrate has recorded that the accused were absent and their appearance was dispensed with directing the accused to appear on 23.11.2016 by mentioning that there was no stay. It is not known whether any letter is addressed to the High Court or not by the learned Magistrate and it is also not known whether the High Court issued reply or not. The learned Magistrate ought to have clarified the same.

7. Therefore, the Registry was directed to place the file in Crl.P.No.3216 of 2015. On verification it was found that no letter was sent by the Registry informing the learned Magistrate that the stay was vacated. Therefore, the order passed by the learned Magistrate dated 26.08.2016 appears to be not correct. There is illegality crept in to and the learned Magistrate has not assigned any reason as to how he did arrive at such an opinion that there was no stay. Therefore, the order is liable to be set aside.

8. Accordingly, the criminal petition is allowed by setting aside the docket order dated 26.08.2016. The learned Magistrate is hereby directed to take up the proceedings in C.C.No.283 of 2012 as and when he receives communication of the order that would be passed in Crl.P.No.3216 of 2015.

9. Miscellaneous petitions pending, if any, shall stand dismissed.

A. SHANKAR NARAYANA, J

28th February 2017.

Note:

The Registry is directed to list
Crl.P.No.3216 of 2015 on 14.03.2017
immediately after the motion list matter.

(b/o)
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