

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

CRIMINAL PETITION No.1271 of 2017

ORDER:

The present petition, under Section 482 of the Code of Criminal Procedure (Cr.P.C.), is filed by the petitioner/Accused to quash the order dated 16.01.2017 passed by the Additional Judicial First Class Magistrate, Ramachandrapuram, in CrI.M.P.No.256 of 2017 in C.C.No.429 of 2015.

The petitioner herein, in fact, filed the aforesaid CrI.M.P., under Section 70 (2) of Cr.P.C, to recall NBW pending against him and cancel the same. The learned Magistrate rejected the request of the petitioner holding that, in fact, the petitioner was not present, but got filed the petition through learned counsel. Further, opining that the petitioner is voluntarily avoiding to attend the Court and has committed the contempt of Court, the learned Magistrate dismissed the petition by the order dated 16.01.2017.

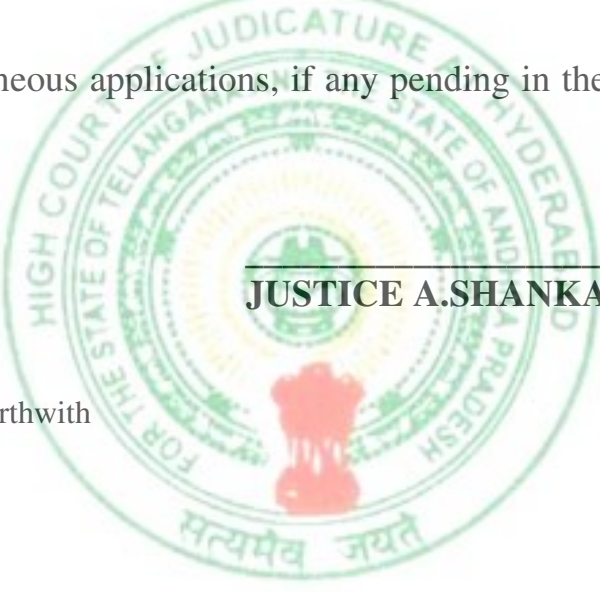
Heard Sri V.Sai Kumar, learned counsel for the petitioner, and the learned Additional Public Prosecutor for the State of Andhra Pradesh on behalf of respondent No.1.

Though, the learned Magistrate went to the extent of observing that the non-appearance of the petitioner before the Court on the date of filing the petition under Section 70 (2) of Cr.P.C amounts to contempt of Court and rejected the request of the petitioner on the ground that the

petitioner, without presenting himself before the Court, got filed the petition through his counsel, a chance can be given to the petitioner to appear before the Court below personally and move a similar petition under Section 70 (2) of Cr.P.C before the learned Magistrate, for recalling NBW, on or before 23.02.2017. In case such an application is filed by the petitioner, the learned Magistrate is directed to dispose of the same on the same day itself.

With the above observations and direction, the Criminal Petition is dismissed at the stage of admission itself.

Miscellaneous applications, if any pending in the present petition, stand closed.



JUSTICE A.SHANKAR NARAYANA

15.02.2017

Note: Issue CC forthwith
B/o
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