

**HON'BLE SRI JUSTICE A. SHANKAR NARAYANA**

**CRIMINAL PETITION No.2829 OF 2017**

**ORDER:**

The present Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.), requesting to recall the Non-Bailable Warrants issued by the learned VIII Metropolitan Magistrate, Cyberabad at Rajendranagar, by the order dated 30.01.2017 in Criminal M.P. No.562 of 2016 in D.V.C. No.13 of 2012.

2. The petitioners herein viz., K. Divakar Reddy, K. Veera Reddy, K. Arjun Kumar Reddy and K. Sujathamma, respectively, are respondent Nos.1 to 4 in the aforesaid D.V.C., and respondent No.1 herein, the aggrieved person, is wife of petitioner No.1 herein.

3. Heard Sri V.V. Satish, learned counsel for the petitioners, and the learned Additional Public Prosecutor for the State of Telangana, and perused the material on record.

4. No notice is ordered to respondent No.1 herein, the aggrieved person, as it is unnecessary.

5. By the aforesaid impugned order, the learned Magistrate, having recorded statement of the 1<sup>st</sup> respondent herein as PW.1, issued non-bailable warrant against the petitioners herein, directing to list the matter on 06.03.2017.

6. The learned counsel for the petitioners would submit that even prior to passing the order under challenge, the 1<sup>st</sup> petitioner has deposited Rs.50,480/-, on different occasions, complying with the conditions imposed by the learned Magistrate while disposing of the D.V.C., which is towards five (5) months arrears of maintenance granted at the rate of Rs.25,000/- per month. His further submission is that appeal was preferred aggrieved over the said order in the D.V.C.

7. While the things stood thus, respondent No.1 herein filed Criminal M.P. No.562 of 2016 in the aforesaid D.V.C. complaining breach of the order. The learned counsel's submission is the 1<sup>st</sup> respondent herein, while making statement as PW.1 in the said petition, suppressed the fact of amount being deposited by the 1<sup>st</sup> petitioner herein, as mentioned in the above.

8. The learned counsel for the petitioners has also pointed out photostat copies of the receipts showing the dates and various amounts crediting Rs.50,480/- (Rupees fifty thousand four hundred and eighty only) concerning the period complained by the 1<sup>st</sup> respondent. The learned counsel would also submit that when the application was filed under Section 70(2) of the Code, the same was returned without being entertained on the ground that the petitioners were not actually present, but got it filed. The learned counsel would submit that when the application sought to be presented, the learned Magistrate has not entertained it.

9. It appears, the instructions given to the learned counsel for the petitioners are not that correct.

10. Be that as it may, the petitioners are not prevented from making an application under Section 70(2) of the Code by physically presenting themselves before the learned Magistrate when the said applications are moved. If such applications are filed by the petitioners, the learned Magistrate may dispose of the same on the same day, in accordance with law.

11. Accordingly, the Criminal Petition is dismissed, at the admission stage itself.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the Criminal Petition stand closed.

**April 6, 2017.**  
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**A. SHANKAR NARAYANA, J**