

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

CRIMINAL PETITION No.2177 of 2017

ORDER:

The present petition, under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Code'), is filed requesting to quash the order, dated 20.02.2017, in CrI.M.P.No.324 of 2017 in Spl.S.C.No.27 of 2012 on the file of the Special Judge for trial of offences under Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act-cum-VI Additional Metropolitan Sessions Judge at Secunderabad.

The petitioner herein is arraigned as Accused No.4 in the aforesaid Special Sessions Case.

By the order under challenge, the petition filed under Section 70 (2) of the Code to recall warrant pending against the petitioner was dismissed on the ground that when the Court insisted for the presence of all the accused for framing of charges, as the matter has been coming up for the past four years prior to that date for the said purpose, one or the other accused used to abstain from attending the Court and cause inconvenience to the Court for framing of charges and, so far as the conduct of the petitioner is concerned, it was observed that when she was absent earlier also, she filed similar petition to recall non-bailable warrant issued against her and the Court allowed the same.

Heard Ms. G.Padma, learned counsel for the petitioner, and the learned Additional Public Prosecutor for the State of Telangana on behalf of respondent No.1.

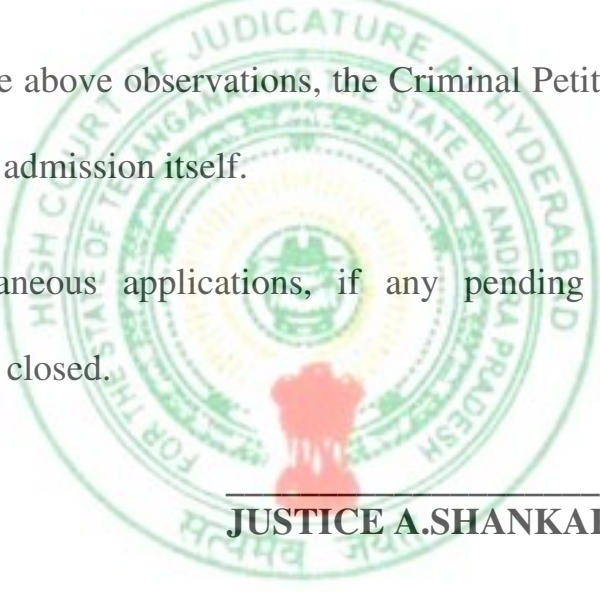
Learned counsel for the petitioner would submit that when a petition, under Section 317 of the Code, was filed on 15.02.2017 along with medical certificate issued by Civil Assistant Surgeon of Osmania General Hospital, Hyderabad, the Court has not acceded to the relief sought therein and dismissed the said petition and issued non-bailable warrant against the petitioner on the same day i.e., 15.02.2017. Learned counsel would further submit that for recalling the said non-bailable warrant, CrI.M.P.No.324 of 2017 was filed and the same was dismissed by the order under challenge herein. Learned counsel would also submit that the petitioner is sufficiently advanced in life, as she is 75 years old, and even the medical certificate issued by the Civil Assistant Surgeon would indicate that the petitioner was advised to take bed-rest for a period of 12 weeks with effect from 13.02.2017.

The medical history record of the petitioner shows that she was suffering from multiple joint pains, high B.P and palpitation. When the medical certificate issued by the Civil Assistant Surgeon is seen, except joint pains, there is no serious ailment being reflected. Be that as it may, since the petitioner is 75 years old, she is permitted to move a similar application under Section 70 (2) of the Code before the

Court below and make a request by filing not only the medical certificate, but also earlier medical history records for perusal of the Court and, on filing such application, the Court shall dispose of the same on the same day. Further, if the non-bailable warrant is recalled by the learned Sessions Judge, the petitioner is also at liberty to make an application under Section 205 of the Code making a request to permit the special vakalath holder to represent the case on her behalf, in which case the learned Sessions Judge may examine the medical proof and dispose of the said application in accordance with law.

With the above observations, 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

16.03.2017
v v