

THE HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

CRIMINAL REVISION CASE No.1887 of 2017

ORDER:

The Criminal Revision Case, under Sections 397 and 401 of the Code of Criminal Procedure, 1973, ('the Code', for brevity), is filed by the petitioner/A6, having been aggrieved of the order, dated 07.06.2017, of the learned VI Additional Judicial Magistrate of First Class, Rajamahendravaram, passed in CrI.M.P.No.2282 of 2017 in Crime No.41 of 2014.

2. I have heard the submissions of learned counsel for the petitioner/A6, and of the learned Public Prosecutor (AP) appearing for the 2nd respondent-State. I have perused the material record.

3. The facts narrated by the learned counsel for the petitioner and the facts, which require consideration, in brief, are as follows:

The petitioner/A6 is one of the accused in Crime No.41 of 2014 of II Town (L&O) Police Station, Rajamahendravaram, East Godavari District, registered for the offences punishable under Sections 285, 336, 438 read with 149 IPC and Sections 190(3), 184, 132(1), 179(1) of the Motor Vehicles Act, 1988. The petitioner/A6 was enlarged on bail. According to the petitioner, he is falsely implicated in the crime. Further, as the crime is under investigation, charge sheet/final report is not yet filed. Despite the said facts, a Non-Bailable Warrant was issued against the petitioner. When the aforesaid CrI.M.P.No.2282 of 2017 is filed in the aforesaid crime for recall of the NBW that was issued against the petitioner/A6, the same was dismissed as the petitioner/A6 was not present at the time of hearing of the said application and as he could not explain his non-appearance on the day the NBW was issued.

4. Learned Public Prosecutor, while not disputing the core facts, would submit that the order is sustainable under facts and in law and supported the orders of the trial Court.

5. From the narration of the facts *supra*, it is clear that after the release of the petitioner/A6 on bail in the aforestated crime, the crime is still under investigation and charge sheet/final report is not yet filed.

6. In that view of the matter, it is apt to refer to Rule 30 of the Criminal Rules of Practice & Circular Orders, 1990. The said Rule reads as under:

“Bail during investigation:-

When an accused is released on bail during investigation, he shall be bound over to appear in Court after the charge sheet is filed and summons served on him. It is not necessary to bind him to appear on any earlier date or dates.”

The aforesaid Rule clearly postulates that when an accused is released on bail during investigation, he shall only be bound over to appear in Court after the charge sheet/final report is filed or summons served upon him and it is not necessary to bind him to appear on any earlier date or dates.

7. On the above analysis, this Court finds that there is merit in the revision and the revision deserves to be allowed.

8. In the result, the Criminal Revision Case is allowed and the impugned order, dated 07.06.2017, of the learned VI Additional Judicial Magistrate of First Class, Rajamahendravaram, passed in Crl.M.P.No.2282 of 2017 in Crime No.41 of 2014, is set aside and the NBW issued against the petitioner/A6 is recalled with a direction to the trial Court to follow the procedure envisaged under law and do the

needful at the appropriate stage of the matter, if necessary, for securing the presence of the petitioner/A6, keeping in view the facts and circumstances relevant for consideration at that stage.

Pending miscellaneous petitions, if any, in this Criminal Revision Case, shall stand closed.

JUSTICE M. SEETHARAMA MURTI

Date: 6th July, 2017

Note: Issue C.C. in two (2) days.

(B/o)
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