

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.1638 OF 2017

ORDER:

The present Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the accused viz., Shaik Shorab Ali, seeking to quash the proceedings in C.C. No.434 of 2016 on the file of the learned Additional Judicial Magistrate of First Class, Alamuru, East Godavari District.

2. Heard Sri S. Syam Sunder Rao, learned counsel for the petitioner, and the learned Additional Public Prosecutor for the State of Andhra Pradesh.

3. The learned counsel for the petitioner would fairly submit that the condition of furnishing Rs.10,000/- with single surety, imposed by the learned Magistrate, was not complied with and that was the reason, petition under Section 317 of Cr.P.C. was dismissed and non-bailable warrant was issued. It is his submission that the petitioner stays at West Bengal and is apprehending threat in the hands of the *de facto* complainant and that was the reason why he could not make available himself before the learned Magistrate on that particular day, when non-bailable warrant was issued and could not comply with the orders of the learned Magistrate.

4. Be that as it may, once non-bailable warrant was issued, the proper course is only to make an application for recalling such warrant under Section 70(2) of Cr.P.C., in which case, the learned Magistrate would dispose of the same with certain conditions, in case, he inclines to grant the relief.

5. Since the learned counsel represents that an application under Section 205 Cr.P.C. was already filed and it was returned, if it was really returned, it is open for the petitioner to represent the same along with the application under Section 70(2) of Cr.P.C., and, if, the same is made, the learned Magistrate is directed to dispose of the same on the same day in accordance with law.

6. With the above observations, the Criminal Petition is disposed of.

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

A. SHANKAR NARAYANA, J

March 1, 2017.

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