

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Criminal Petition No.1961 of 2018

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioner/accused, requesting to recall the non-bailable warrant issued against him by the learned I Additional Judicial Magistrate of First Class, Proddutur, Kadapa District, vide order, dated 12.10.2017, passed in C.C.No.413 of 2015.

2. Heard the learned counsel for the petitioner/accused, learned Assistant Public Prosecutor representing the 2nd respondent-State and perused the record.

3. When an application under Section 70(2) of Cr.P.C. is filed by the petitioner/accused before the Court below to recall the non-bailable warrant issued against him, the said application was returned raising an objection about maintainability of the petition without appearance of the petitioner/accused along with the petition. Thereafter, the petitioner/accused obtained an order from this Court on 04.01.2018 in Criminal Petition No.54 of 2018, wherein, this Court observed that when the petitioner/accused represented the petition based on the law declared by this Court, the Court below has to pass an order on merits and, accordingly, directed the Registry to return the original petition and other relevant papers to the petitioner/accused enabling him to represent it before the Court below and on such representation, the Court below was directed

to dispose of the same in accordance with law. Accordingly, the petitioner/accused represented the petition on 31.01.2018. Again the Court below returned the petition by observing that the previous query was not complied.

4. When an application is represented for two times and when there is an order of this Court to dispose of the petition in accordance with law, the Court below ought not to have returned the recall application assigning the above reason. Under these circumstances, the Court below shall assign M.P. number (I.A. number) to the recall application of the petitioner/accused and shall dispose of the same, on merits and in accordance with law, without raising any objection.

5. The Criminal Petition is ordered accordingly.

Miscellaneous Petitions, if any, pending in this Criminal Petition, shall stand closed.

Dr. SHAMEEM AKTHER, J

28th February, 2018
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