

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Criminal Petition No.2005 of 2018

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioner, seeking to quash the order, dated 25.09.2017, passed in CrI.R.P.No.1 of 2016, by the I Additional Metropolitan Sessions Judge, Visakhapatnam, whereby and whereunder, the order, dated 21.12.2015, passed in C.C.No.111 of 2011 by the IV Metropolitan Magistrate, Bheemunipatnam, Visakhapatnam District, was confirmed.

2. Heard the learned counsel for the petitioner, learned Assistant Public Prosecutor representing the 1st respondent-State and perused the record.

3. The learned counsel for the petitioner would submit that the advocate has not communicated the petitioner with regard to posting of the case. The petitioner is a doctor by profession and he was busy in operations. The trial Court had erroneously dismissed the complaint for default. Non appearance of the petitioner before the trial Court is neither wilful nor deliberate. The petitioner has respect for the Courts and law. The petitioner assures that he will not commit default in future and ultimately prayed to allow the application.

4. The learned Assistant Public Prosecutor opposed the application.

5. As seen from the record, both the Courts below have meticulously dealt with the matter and ultimately negated the request made on behalf of the petitioner. As seen from the material placed on record, C.C.No.111 of 2011 was posted 10.12.2015 before the trial Court for the evidence of the petitioner. He was absent on that day. Again, the C.C. was posted on 14.12.2015 and there was no representation on behalf of the petitioner on that day also. When the C.C. was posted on 16.12.2015, again there was no representation for the petitioner and the petitioner was absent. There was a specific direction of the learned Magistrate directing the petitioner to attend the Court on the next date of adjournment, i.e., on 17.12.2015. Again, the petitioner was absent on 17.12.2015 also and there was no representation on his behalf. The trial Court issued Non-bailable Warrant against the accused. On 21.12.2015, since the process was not paid and the complainant was absent and there was no representation on his behalf, the trial Court dismissed the complaint.

6. As seen from the record, the petitioner was given several opportunities to proceed with the case by examining himself as a witness in the subject Calendar Case. The petitioner cannot plead that information with regard to posting of case was not parted to him by this advocate. It is the duty of the petitioner to attend the Court and pursue the Calendar Case. It appears from the record that the petitioner had deliberately abstained from attending the Court on several occasions. The contentions now

raised on behalf of the petitioner were answered in detail by both the Courts below. This Court does not find any infirmity in the orders of both the Courts below warranting interference under Section 482 of Cr.P.C. The Criminal Petition is devoid of merit and is liable to be dismissed.

7. In the result, the Criminal Petition is dismissed.

Pending Miscellaneous Petitions, if any, shall stand closed.

Dr. SHAMEEM AKTHER, J

20th February, 2018
Bvv

