

**HON'BLE Dr. JUSTICE SHAMEEM AKTHER**

**CRIMINAL PETITION No.2263 OF 2018**

**ORDER:**

This Criminal Petition, under Section 482 of Cr.P.C., is filed by the petitioners-A.1 to A.6 seeking to set aside the order dated 09.01.2017 passed in CrI.M.P. No.3072 of 2017 in C.C. No.800 of 2017 on the file of the VIII Special Magistrate, Kukatpally at Miyapur, Ranga Reddy District.

2. Heard the learned counsel for the petitioners-A.1 to A.6 and the learned Additional Public Prosecutor appearing for the 2<sup>nd</sup> respondent-State, apart from perusing the material available on record.

3. Learned counsel for the petitioners-A.1 to A.6 would submit that the petitioners-A.1 to A.6 informed their advocate to attend the Court on their behalf and file an application under Section 317 Cr.P.C. to dispense with their presence on 11.12.2017; as their advocate was out of station, he could not represent the case of the petitioners-A.1 to A.6 and the Court was pleased to issue N.B.Ws. against the petitioners-A.1 to A.6; thereafter, the petitioners filed an application to recall N.B.Ws. and the same was dismissed *vide* the impugned orders; the petitioners could not attend the Court as they were at Arunachal Pradesh and their recall application was dismissed; at the time of adjudicating the recall application, the personal appearance of the petitioners-accused is not necessary; and ultimately, prayed to set aside the impugned order and recall the N.B.Ws. issued against the petitioners-A.1 to A.6.

4. On the other hand, learned Additional Public Prosecutor opposed the relief sought for by the petitioners.

5. As per the material placed on record, the Court below, while dealing with dismissal of recall application filed by the petitioners, has

given number of reasons. As per the record, C.C. No.800 of 2017 was posted to 11.12.2017, summons were served on the petitioners-A.1 to A.6, but they were absent on that day. There was no representation on behalf of the petitioners-A.1 to A.6 and the Court was pleased to issue N.B.Ws. against the petitioners-A.1 to A.6. On that day, other accused A.7 to A.11 were not present, but their appearance was dispensed on filing an application under Section 317 Cr.P.C. Simply the submission made on behalf of the petitioners-A.1 to A.6 is that they have instructed their advocate to file vakalat and also file an application to dispense with their presence. Their advocate did not do so, as he was out of station. The petitioners did not attend before the Court on that day as they were at Arunachal Pradesh. Further the recall application was filed by the petitioners in their absence. Merely because the petitioners were at Arunachal Pradesh, their recall application filed under Section 70(2) Cr.P.C. cannot be allowed. The petitioners have to give cogent and convincing reasons. Those reasons are absent in the instant case. There is no infirmity in the impugned order. This petition is devoid of merit and it is liable to be dismissed.

6. Accordingly, the Criminal Petition is dismissed. Miscellaneous petitions, if any pending in this Criminal Petition, shall stand closed.

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**Dr. SHAMEEM AKTHER, J**

Date: 07-03-2018

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