

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Criminal Petition No.3471 of 2018

ORDER:

This Criminal petition is filed under Section 482 Cr.P.C. by the petitioners/A1 and A2, as if the trial Court issued NBWs. against them in spite of their appearance was dispensed with by this Court in W.P.No.39746 of 2016 dated 17.11.2016.

2) Learned counsel for petitioners would submit that in spite of the order in the aforesaid writ petition, unfortunately the trial Court issued NBWs. on 12.03.2018. He thus prayed to set aside NBWs. issued by the trial Court, in C.C.No.455 of 2015.

3) A perusal of the order in W.P.No.39746 of 2016 would show that the said writ petition was filed by the petitioners/accused seeking to quash the proceedings in C.C.No.455 of 2015 on the file of XIV Additional Chief Metropolitan Magistrate, Hyderabad. This Court, while not inclining to grant the relief sought for by the petitioners, however, on the request of learned counsel for petitioners, dispensed with the presence of the petitioners before the Court below except on the dates on which the learned Magistrate insists for their appearance. By no stretch of imagination it can be said that the above order imposed a total embargo on the learned Magistrate to insist the presence of petitioners/accused before him when he considers required. A perusal of copy of the history of case sheet in C.C.No.455 of 2015 produced by the counsel for petitioners would show that on 12.03.2018, NBWs. were issued by the trial Court. It would show that since 19.09.2017 the matter was coming up for trial. In that context, it appears, the trial Court issued NBWs against the petitioners. Learned counsel would submit, in fact, a petition under Section 70(2) Cr.P.C. was filed seeking re-call of NBWs. but the same is still pending. In view of the

above facts, there is no reason for this Court to interfere with the order of NBWs. issued by the trial Court. At the cost of pleonasm, it must be said that this Court in W.P.No.39746 of 2016 had not imposed an embargo on the power of the trial Court to insist the appearance of the parties when required. Absolutely, there are no merits in the petition filed by the petitioners.

4) Accordingly, this Criminal Petition is dismissed.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

Date: 21.03.2018
Murthy

U.DURGA PRASAD RAO, J

