

HON'BLE SRI JUSTICE P. KESHAVA RAO

CRIMINAL REVISION CASE No.1249 of 2018

ORDER:

Heard the learned counsel for the petitioner and the learned Public Prosecutor appearing for the first respondent-State.

The present criminal revision case is filed questioning the docket order proceedings dated 09.03.2018 in C.C.No.396 of 2015 on the file of the Court of the XIV Additional Chief Metropolitan Magistrate, Nampally at Hyderabad, issuing non-bailable warrant against the petitioner, after dismissing the petition filed under Section 317 Cr.P.C.

The facts in brief are that the petitioner along with two other accused, is charged for the offence under Section 506 IPC. During the pendency of the calendar case, on 9.3.2018 the petitioner was not present before the Court below and to dispense with his personal appearance, a petition was filed by his counsel. However, the learned Magistrate dismissed the petition and issued N.B.W. against the petitioner. Questioning the said orders, the present revision case is filed.

Learned counsel appearing for the petitioner, would contend that the petitioner filed a petition under Section 317 Cr.P.C. specifically stating that on 9.3.2018 the petitioner was suffering from viral fever and he was not able to attend the Court. Therefore, his attendance on the said date may be dispensed with. But, the Court below without even numbering the said petition, and without giving any reasons, simply issued N.B.W. by observing '*A-3 absent, petition filed, and dismissed. Issue N.B.Ws. on process by 11.4.2018.*'

The learned Public Prosecutor appearing for the first respondent-State, fairly conceded that the impugned docket order dated 9.3.2018, does not contain any reasons for dismissal of the said petition nor at least an observation that the petitioner has been avoiding the process of the Court.

Having heard both the learned counsel and from the perusal of the material on record, it is revealed that though the petitioner filed a petition for dispensing with his attendance on 9.3.2018 on the ground of ill-health, the Court below without considering and appreciating the same, simply dismissed the petition without giving any reasons. Therefore, the order passed by the Court below in dismissing the petition and issuance of the N.B.W. will not stand to legal scrutiny and the same is liable to be set aside.

Accordingly, the criminal revision case is allowed setting aside the docket order proceedings dated 09.03.2018 in C.C.No.396 of 2015 on the file of the Court of the XIV Additional Chief Metropolitan Magistrate, Nampally at Hyderabad, issuing non-bailable warrant against the petitioner, after dismissing the petition filed under Section 317 Cr.P.C. Therefore, the non-bailable warrant dated 9.3.2018 issued against the petitioner in C.C.No.396 of 2015 are hereby recalled.

Miscellaneous petitions, if any, shall also stand dismissed.

P. KESHAVA RAO, J

Date: 26.07.2018.
CCM

HON'BLE SRI JUSTICE P. KESHA VA RAO



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Date:26.07.2018

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