

THE HON'BLE SRI JUSTICE P. KESHA RAO
CRIMINAL REVISION CASE NO.1723 OF 2018

ORDER:

Heard the learned counsel for the petitioner as well as the learned Public Prosecutor appearing for the 1st respondent State.

2. The present Criminal Revision Case is filed questioning the docket order dated 21.5.2018 in dismissing the petition filed Under Section 70 (2) of Cr.P.C. vide CrI.M.P.No.2760 of 2018 to recall the NBW issued against the petitioner on 13.10.2017.

3. The facts of the case are that the 2nd respondent herein filed a private complaint against the petitioner herein for the offences Under Sections 138 and 142 of the Negotiable Instruments Act on the file of the Court of the II Additional Judicial First Class Magistrate, Bhimavaram. The endorsement on 13.10.2017 indicates that the summons sent to the accused by RPAD were returned unserved with an endorsement, "not claimed". Therefore, NBW was issued against the petitioner herein. To recall the said NBW, the petitioner herein filed a petition vide CrI.M.P.No.2760 of 2018 Under Section 70(2) Cr.P.C. In the said petition, he has categorically stated that the petitioner herein is suffering from cancer and he is under treatment in Sowmya Multi Speciality Hospital, Secunderabad and the photo copy of the out patient card also was enclosed to the said petition. However, the Court below, on 21.5.2018, without considering the same, dismissed the petition

without giving any reasons. Aggrieved by the same, the present Criminal Revision Case is filed.

4. Learned counsel for the petitioner would contend that though the endorsement on the notice sent through RPAD mentions, "not claimed", the Court below ought to have issued notice through Court also. As far as this contention is concerned, this Court is unable to accept the same. However, in the light of the documentary evidence placed before this Court regarding the ailment of the petitioner i.e., Cancer, this Court is satisfied that it is a case where the NBW issued against the petitioner can be recalled not only on this ground but also on the ground that the order passed by the Court below is a cryptic order comprising of three words. Therefore, this Court deems it appropriate to set aside the docket order dated 13.10.2017 in issuing NBW against the petitioner.

5. Accordingly, Criminal Revision Case is allowed setting aside the impugned docket order dated 21.5.2018 in dismissing the CrI.M.P. No.2760 of 2018 and the NBW issued against the petitioner on 13.10.2017 is hereby recalled.

Pending miscellaneous petitions, if any, shall stand closed.

No order as to costs.

P. KESHAHA RAO,J

Date: 9.7.2018

KPM