

THE HON'BLE SRI JUSTICE P.KESHA RAO

CRIMINAL REVISION CASE No.1642 OF 2018

ORDER:

This Criminal Revision Case is filed against the orders passed in CrI.M.P.No.486 of 2018 in C.C.No.536 of 2017, dated 08.06.2018, dismissing the petition filed under Section 70(2) of Cr.P.C. to recall the warrants issued against the petitioner on 14.12.2017, on the file of II Additional Judicial Magistrate of First Class, Nizamabad.

Heard the learned counsel for the petitioner as well as the learned Public Prosecutor appearing for the 2nd respondent-State.

The facts of the case are that the petitioner herein is charged for an offence under Section 138 of Negotiable Instruments Act. During the pendency of the proceedings, the petitioner could not present before the Court on 14.12.2017, since, on that date, the petitioner was unwell and in fact, he was undergoing treatment at Hyderabad and Metpally since November, 2017 and as such, he could not attend the Court. Therefore, N.B.Ws. were issued against the petitioner. To recall the said N.B.Ws., the petitioner filed a petition vide CrI.M.P.No.486 of 2018. The Court below dismissed said petition by orders dated 08.06.2018. Aggrieved by the same, the present Criminal Revision Case is filed.

The learned counsel appearing for the petitioner would contend that the petitioner herein is unwell and he could not present before the Court below on 14.12.2017. The counsel also would submit that the petitioner is undergoing treatment at Hyderabad and Metpally and his absence on that particular day is

not intentional, but due to the reasons stated *supra*. He also brought to the notice of the Court that except on 14.12.2017, on all other previous occasions, the petitioner was present before the Court.

The learned Public Prosecutor appearing for the 2nd respondent-State has not opposed the contention of the counsel for the petitioner.

Taking into consideration the above said submissions and the age of the petitioner being 72 years, this Court feels it appropriate to set aside the impugned order passed by the Court below and recall the warrant issued against him on 14.12.2017.

Accordingly, the Criminal Revision Case is allowed setting aside the order dated 08.06.2018 passed in CrI.M.P.No.486 of 2018 in C.C.No.536 of 2017 on the file of II Additional Judicial Magistrate of First Class, Nizamabad and the Non-Bailable Warrant issued against the petitioner dated 14.12.2017 is hereby recalled.

Pending miscellaneous petitions, if any, shall also stand closed.

P.KESHAVA RAO,J

29th JUNE 2018.
Tsr