

THE HON'BLE SRI JUSTICE P.KESHA RAO

CRIMINAL REVISION CASE No.1802 OF 2018

ORDER:

This Criminal Revision Case is filed questioning the docket order dated 02.07.2018 passed in CrI.M.P.No.1079 of 2018 in C.C.No.1 of 2007 on the file of the Principal Sessions Judge, Kurnool dismissing the petition filed under Section 317 of Cr.P.C and issuing the Non-bailable Warrants against the petitioner.

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

The facts of the case are that the petitioner is A.10 and he is charged for the offences under Sections 409, 420 IPC and Section 5 of the Andhra Pradesh Protection of Depositors of Financial Establishment Act, 1999 in Crime No.109 of 2002 on the file of Atmakur Police Station. After investigation, charge sheet was laid. The Court below having taken the cognizance of the offences against the petitioner herein and others, numbered the case as C.C.No.1 of 2007. It is relevant to point out that the petitioner has been impleaded as A.10 on the application filed by the prosecution under Section 319 of Cr.P.C. after adducing of evidence. Questioning the impleadment of the petitioner herein as A.10 by virtue of the orders passed under Section 319 of Cr.P.C., the petitioner filed CrI.R.C.No.743 of 2010 before this Court. Pending the said revision, petition in CrI.R.C.M.P.No.1104 of 2010 is filed seeking stay of all further proceedings pursuant to the orders dated 19.02.2010 passed by the Court below. After hearing, this Court was pleased to grant interim stay as prayed for

and the said order is still in force. When the order is in force, on 02.07.2018, the counsel for the petitioner herein filed a petition under Section 317 of Cr.P.C. before the Court below to dispense with his presence. However, the Court below dismissed the said application by observing that in spite of specific directions to appear before the Court for hearing on charges, the petitioner is called absent and issued the Non-bailable Warrants. Questioning the same, the present revision is filed.

During the Course of hearing, the learned Public Prosecutor has fairly conceded before this Court that in the light of the orders passed by this Court in CrI.R.C.M.P.No.1104 of 2010 in CrI.R.C.No.743 of 2010, the Court below ought not to have dismissed the petition filed under Section 317 of Cr.P.C. and issued the Non-bailable Warrants against the petitioner. The said order will come within the teeth of the orders of this Court leading to serious consequences. Be that as it may, without going into the said aspect, since the impugned order passed by the Court below is contrary to the orders passed by this Court, the same is liable to be set aside.

Accordingly, the Criminal Revision Case is allowed setting aside the orders passed in CrI.M.P.No.1079 of 2018 in C.C.No.1 of 2007, dated 02.07.2018 and the Non-bailable Warrants dated 02.07.2018 issued against the petitioner is hereby recalled.

Pending miscellaneous petitions, if any, shall stand closed.

P.KESHAHA RAO,J

17th JULY 2018.
Tsr

