

HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL REVISION CASE No.1882 of 2018

ORDER:

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

The present revision case is filed questioning the docket order dated 30.06.2017 in issuing non-bailable warrant against the petitioner in PRC.No.32 of 2017 in Crime No.19 of 2017 on the file of the I Additional Judicial Magistrate of First Class, Karimnagar.

The facts in brief are that the petitioner, who is A1, and others have been charged for the offence under Sections 307, 498-A, 420, 354, 506 and 500 read with 34 IPC and Section 4 of the Dowry Prohibition Act. After investigation, charge sheet has been filed. The learned Magistrate, after taking cognizance of the offence against the accused, including the petitioner, on 30.06.2017, issued non-bailable warrant against the petitioner. Questioning the same, the present revision case is filed.

Learned counsel appearing for the petitioner would contend that when once a charge sheet has been filed and the Court has taken cognizance of the offence, the Court below ought to have issued summons for appearance of the accused, but straight away cannot issue non-bailable warrants. To support his contention, he relied on the judgment of the Apex Court in **Inder Mohan Goswami and another vs. State of Uttaranchal and others**¹.

The relevant portion is as under:

“In complaint cases, at the first instance, the Court should direct serving of the summons along with the copy of the

¹ (2007) 12 SCC 1

complaint. If the accused seem to be avoiding the summons, the Court, in the second instance should issue bailable warrant. In the third instance, when the Court is fully satisfied that the accused is avoiding the Court's proceedings intentionally, the process of issuance of the non-bailable warrant should be resorted to. Personal liberty is paramount, therefore, we caution Courts at the first and second instance to refrain from issuing non-bailable warrants."

Learned counsel also relied on the judgments of this Court in Crl.R.C.Nos.858, 859 and 896 of 2013 and 2974 of 2016.

Per contra, the learned Public Prosecutor appearing for the respondent State submitted that the petitioner is absconding and throughout the investigation, he was not available to the investigating agency. Therefore, he supported the impugned docket order in issuing non-bailable warrant against him.

Having heard both the counsel and a perusal of the material on record, it is disclosed that after filing the charge sheet when the Court has registered the case as PRC.No.32 of 2017, unless the summons for appearance are issued, straight away non-bailable warrants cannot be issued. In fact, in **Inder Mohan Goswami (supra)**, the Apex Court was pleased to consider the said aspect and observed that at the first instance, the Court should direct serving of summons along with the copy of the complaint. If the accused seems to be avoiding the summons, the Court at the second instance should issue bailable warrant. Then only, a non-bailable warrant can be issued. Therefore, the impugned docket order dated 30.06.2017 issuing non-bailable warrant against the petitioner is not sustainable.

Accordingly, the criminal revision case is allowed, setting aside the docket order dated 30.06.2017 to the extent of issuing non-bailable warrant against the petitioner in PRC.No.32 of 2017

in Crime No.19 of 2017 on the file of the I Additional Judicial Magistrate of First Class, Karimnagar.

Miscellaneous petitions, if any, shall stand closed.

P. KESHAVA RAO, J

Date: 20.07.2018.
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