

THE HON'BLE SRI JUSTICE P. KESHA RAO
CRIMINAL REVISION CASE NO. 2076 OF 2018

ORDER:

Heard the learned counsel for the petitioner.

2. The present Criminal Revision Case is filed questioning the docket order dated 4.7.2018 in C.C.No.871 of 2014 on the file of the Court of IV AJCJ-cum-XXV Metropolitan Magistrate, Cyberabad, Kukatpally, wherein a non-bailable warrant is issued against the petitioner.

3. The facts in brief are that the petitioner herein is charged for the offence under Sections 420, 468 and 471 IPC vide CC.No.871 of 2014 on the file of the Court of IV AJCJ-cum-XXV Metropolitan Magistrate, Cyberabad, Kukatpally. During the course of the trial, the matter was posted to 27.6.2018. On 27.6.2018, the petition filed under Section 70 (2) of Cr.P.C. to recall the non bailable warrant issued against the petitioner was allowed subject to the petitioner attending the Court on the next date of hearing i.e., on 4.7.2018. On 4.7.2018, the counsel for the petitioner filed a petition under Section 317 Cr.P.C. to dispense with the presence of the petitioner on the ground that he was not able to move out of the house since he suffered an episode of Cerebrovascular accident and paralysed due to bleeding in the brain. However, learned Magistrate,

dismissed the said petition and issued non-bailable warrant against the petitioner. Questioning the said order, the present Criminal Revision Case is filed.

4. Learned counsel for the petitioner would submit that the Court below ought not to have issued non-bailable warrant dated 4.7.2018 against the petitioner since his absence on the said date was not intentional. He also brought to the notice of this Court, the certificate dated 29.6.2018 issued by the Resident Medical Officer, Apollo Hospitals, Jubilee Hills, Hyderabad to the effect that the petitioner had an episode of Cerebrovascular accident and paralysed due to bleeding in the brain. He is still under review and treatment by Neurologist and Physicians. He needs assistance for daily activities and he cannot be moved out of the house. In the light of the same, the Court below ought not to have dismissed the petition filed under Section 70 (2) of Cr.P.C. and issued non-bailable warrant.

5. Per contra, learned Public Prosecutor appearing for 1st respondent State, fairly conceded that it is a fit case where the presence of the petitioner can be dispensed with since he had an episode of Cerebrovascular accident and paralysed due to bleeding in the brain.

6. Having heard both the counsel and from a perusal of the material on record particularly, the medical certificate dated 29.6.2018 issued by the Apollo Hospitals, this Court deems it appropriate to set aside the docket order dated 4.7.2018.

7. Accordingly, the Criminal Revision Case is allowed by setting aside the docket order dated 4.7.2018 in C.C.No.871 of 2014 on the file of the Court of the IV AJCJ-cum-XXV Metropolitan Magistrate, Cyberabad, Kukatpally and the non-bailable warrant dated 4.7.2018 issued against the petitioner is hereby recalled.

Pending miscellaneous petitions, if any, shall stand closed.

Date: 3.8.2018

KPM



P. KESHA RAO, J