

HON'BLE SRI JUSTICE N.BALAYOGI
CRIMINAL REVISION CASE No.2425 OF 2018

ORDER:

This Criminal Revision Case is filed aggrieved by the docket order, dated 28.06.2018, passed in C.C. No.30050 of 2016, by the V Additional Judicial Magistrate of First Class, Nellore (for short, 'the trial Court'); wherein the trial Court issued N.B.Ws. against the petitioners .

Since this Revision is preferred only to recall N.B.Ws. issued against the petitioners, this Court deems it just and proper in the interests of Justice to dispose of the Revision itself, at the admission stage, with the consent of learned counsel for the petitioners and the learned Public Prosecutor.

The main submission of learned counsel for the petitioners is that though this Court, in Criminal Petition No.3340 of 2018, dated 19.03.2018, dispensed with the attendance of the petitioners, except on the occasion when the trial Court considers their presence necessary, without issuing any notice or summons to the petitioners the trial Court straight away issued N.B.Ws. to them.

Learned Public Prosecutor contends that there is nothing wrong in the impugned docket order in issuing N.B.Ws. to the petitioners as the very order in Criminal Petition No.3340 of 2018, dated 19.03.2018, itself stipulates that the attendance of the petitioners before the trial Court in C.C. No.30050 of 2016 is dispensed with except on the occasion when the trial Court considers their presence necessary.

The brief facts of the case are that the petitioners are arrayed as accused Nos.1 and 2 in the private complaint filed before the trial Court

which was taken cognizance for the offences punishable under Sections 448, 427 and 379 R/w.34 of I.P.C. R/w.156(3) of Cr.P.C. and numbered as C.C. No.30050 of 2016.

During pendency of C.C. No.30050 of 2016, the petitioners along with other accused preferred Criminal Petition No.3340 of 2018, under Section 482 of Cr.P.C., before this Court seeking stay of all further proceedings including appearance of the petitioners before the trial Court in C.C. No.30050 of 2016; while allowing the said Petition, this Court, taking into consideration the fact that the petitioners herein are residents of Hyderabad and are aged persons, dispensed with the attendance of the petitioners except on the occasion when the trial Court Considers their presence necessary. Subsequently, when C.C. No.30050 of 2016 was posted to 28.06.2018, for appearance of the petitioners, hearing them and framing charges against them, the petitioners were absent. Therefore, the trial Court rightly issued N.B.Ws. against the petitioners.

Having considered those facts, the trial Court is at liberty to insist the presence of the petitioners at the stage of the examination and framing charges and as such there is no violation or wrong in the impugned docket order dated 28.06.2018 in issuing N.B.Ws. against the petitioners, when the matter is posted for their appearance and they did not appear. Hence, there is no substance in the contention of learned counsel for the petitioners that the trial Court erroneously issued N.B.Ws. against the petitioners, without any notice or summons, in violation of the order dated 19.03.2018 passed by this Court in Criminal Petition No.3340 of 2018.

Since the presence of the petitioners is necessary for their examination, it is directed that the petitioners shall appear before the trial Court on 17.09.2018 and file recall application and, on such application

being filed by the petitioners, the trial Court is directed to consider the application, in accordance with law, and proceed with the case.

Accordingly, with the above observations, the Criminal Revision Case is closed.

As a sequel, the miscellaneous petitions, if any pending, shall also stand closed.

N.BALAYOGI, J

Date: 07.09.2018.

Note:

Issue C.C. by 10.09.2018.

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C.C. BY 10.09.2018

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