

HON'BLE SRI JUSTICE N.BALAYOGI

CRIMINAL REVISION CASE No.2500 of 2018

ORDER:

Heard the learned Counsel for the petitioners and learned Public Prosecutor for State of Andhra Pradesh.

This Criminal Revision Case is filed aggrieved by the docket order dated 07.09.2018 passed in CrI.MP.No.828 of 2018 in C.C.No.38 of 2009 on the file of Judicial Magistrate of First Class, Mummudivaram, East Godavari District, dismissing the application filed seeking recall of Non-Bailable Warrants issued against the petitioners on 12.01.2018.

The contention of learned counsel for petitioners is that petitioners need not appear on each and every adjournment when appeared through a counsel, more so, along with an application seeking recalling of NBWs issued.

Per contra, learned Public Prosecutor appearing for the State of Andhra Pradesh states that the matter is listed for framing of charges and the presence of petitioners is necessary.

Respondent No.2 filed a private complaint against the petitioners for the offences punishable under Section 498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act. The learned Magistrate, after recording the sworn statements of the witnesses, took cognizance of the offence and numbered as C.C.No.38 of 2009 and issued summons to the accused. In

response to the summons, petitioners appeared and only on 12.01.2018, they did not appear and NBWs were issued.

In view of the settled proposition of law that, on an application for recall of NBWs, the same needs to be considered on merits by the learned Magistrate without insisting for appearance of the accused, the order of the Trial Court in dismissing the recall petition and insisting for appearance of accused is erroneous and requires to be set aside.

The impugned docket order dated 07.09.2018 is set aside and the NBWs issued on 12.01.2018 are recalled. Petitioners are directed to attend before the Court on the next date of hearing, as fixed by the Trial Court, and cooperate for speedy disposal of C.C.No.38 of 2009.

Accordingly, the Criminal Revision Case is allowed.

Miscellaneous petitions, if any, pending, shall stand closed.

N.BALAYOGI,J

Dt:24.09.2018

Note:CC by 25.09.2018

bo

usd