

THE HONOURABLE SRI JUSTICE N.BALAYOGI**CRIMINAL REVISION CASE No. 2516 of 2018****ORDER :**

Since the Criminal Revision Case is filed against the endorsement dated 31.08.2018 passed by the II Additional Chief Metropolitan Magistrate at Hyderabad against recall of Non-bailable Warrant, the main Revision itself can be disposed of instead of entertaining the interlocutory application.

Learned Public Prosecutor took notice.

2. Learned counsel for the petitioner / accused No.3 submits that there is no need for the presence of the petitioner along with the application under Section 70 (2) Cr.P.C., whereas the learned Public Prosecutor for the State of Telangana contended that if the petitioner appears before the Court below, there would be no objection to recall the Nonbailable Warrant.

3. On perusal of the record, this Court is of the opinion that as the petitioner could not attend the Court on 19.09.2016, Nonbailable Warrant was issued to the petitioner. It appears that the petitioner filed the petition under Section 70(2) Cr.P.C. The petitioner himself stated that he could not attend the Court on 19.09.2016 and did not file any petition to dispense with his presence. Therefore, the Court below having no other alternative, issued Nonbailable Warrant to the petitioner.

4. The reasons stated by the petitioner / accused No.3 for non appearance before the Court below on 19.09.2016 was on account of his old aged father suffering with ailments; and he has to travel from Hyderabad to Vetapalem, where his father is staying. In such circumstances, it is quite reasonable and sufficient to cause his absence, more so, the law does not compel the petitioner/ accused to appear along with an application for recall of warrant.

5. Therefore, the order of Court below is perverse and liable to be set aside and, accordingly, the Nonbailable Warrant issued to the petitioner / accused No.3 is recalled. The petitioner is directed to appear before the Court below on the next date of hearing and shall continue to appear before the Court below as and when required.

6. Learned Counsel for the petitioner / accused No.3 reported that C.C. was listed before the Court below on 8.10.2018. In such circumstances, the petitioner / accused No.3 shall attend before the Court below on 10.10.2018.

7. Accordingly, the Criminal Revision Petition is disposed of.

Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE N. BALAYOGI

Date: 01.10.2018

Note : Issue cc today
(B.O)
JR

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