

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.11630 of 2018

ORDER :

Notice sent to the 2nd respondent returned as left is sufficient.

2. Heard learned counsel for the petitioner and learned Public Prosecutor.

3. In the present criminal petition impugning the order of the learned Magistrate in issuing Non-bailable Warrant (NBW) against the petitioner, who is no other than the respondent in D.V.C.No.35 of 2017 on the file of the III Metropolitan Magistrate, Nampally, against recall of NBW, CrI.M.P.No.1249 of 2018 filed and the same was ended in dismissal by the impugned order, dated 14.08.2018, which reads, the complainant in the DVC case filed affidavit stating as per order of Court, dated 27.07.2018, she gave notice to the respondent (quash petitioner herein), on that day in Court premises that is 14.08.2018 and submitted in open Court that respondent sat in the corridor of the opposite Court i.e., IX Additional MSJ Court and failed to attend and also filed proof of acknowledgment showing service of notice on him, she even submitted that knowingly and deliberately is not turning up. The Court called through the Attendar name of the respondent for trice for his appearance, but he did not turn up and having found he deliberately, having been present at the opposite Court, failed to attend ordered to issue NBW. It is same now sought for quashing.

4. The proceedings of DVC are quasi criminal or quasi civil and for expeditious disposal that too in a summary manner those are provided with the trappings of the criminal procedure, but not practically he was accused nor she was without determination a victim always. Once such is the case, leave about the procedure contemplated under Section 126 Cr.P.C. even applicable for dispense with the personal presence if at all, thereby the Court at best issued bailable warrant than NBW, for not involved in any grave offence, but in quasi civil domestic violence proceedings.

5. Having regard to the above, the docket order, dated 14.08.2018, in issuing the NBW and dismissing the application for recall is set aside and the learned Magistrate is directed to proceed from the presence of the respondent in DVC.No.35 of 2017 by obtaining bond for her future due appearance or if at all any application filed either under Section 205 Cr.P.C. or 126 Cr.P.C. to dispense with the personal presence so long as represented through advocate.

6. With the above observations, the criminal petition is allowed.

Miscellaneous petitions pending, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

4th December 2018.

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