

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CRIMINAL REVISION CASE NO.3416 OF 2018

ORDER:

This revision is arising out of order, dated 01.10.2018 and 10.10.2018 passed by the Addl. Judl. Magistrate of I Class, Bhongir, in issuing N.B.Ws against the accused for their failure to appear before the Court.

2. The petitioner 1 to 8 are A4 and A6 to A12 in PRC No.23 of 2016. The petitioners failed to appear before the Addl. Judl. Magistrate of I Class, Bhongir, in PRC No.23 of 2016. As per the order of the trial Court, N.B.Ws. were pending against A1,A3 and A5. The petitioners-A4 and A6 to A12 have filed a petition and the same was dismissed and they were directed to appear on the next date of posting. As they failed to appear, N.B.W was issued against A13. The order passed by the learned Magistrate, dated 10.10.2018 reads thus:

“Accused No.2 and 3 present. N.B.W. pending against A3 and he is along with petition under Section 70 (2) Cr.P.C. checked and allowed on costs of Rs.100/- which to be paid to Mandal Legal Services Authority. Remaining all i.e., Accused Nos. 1, 4 to 13 absent. N.B.W. pending against Accused No.1 and 5 , petition filed for Accused No.4, 6 to 12 dismissed as they were directed to appear next date on last date of posting. Hence issue N.B.W against Accused No.4, 6 to 12 and also issue N.B.W. against Accused No.13. Call on 02.11.2018.”

3. The order passed by the learned Magistrate does not convey proper meaning. The construction of sentences also do not convey any meaning. The order does not show the application of the mind of the Judicial officer in passing the order. The above order is passed in a serious offence like 306 r/w 34 and 120-B IPC. The order does not reflect the actual proceedings which have taken place before the trial Court.

4. Learned counsel for the petitioners submits that the petitioners have filed a petition under Section 317 Cr.P.C. for A2, A4, A6 to A12 and the same was allowed on cost of Rs.100/- each and they were directed to appear on the next date of hearing.

5. The Court below issued N.B.Ws. against A4, A6 to A12 and A13. The Court below has considered the dispense with petition filed for A4, A6 to A12 on 10.10.2018 in view of stay of all further proceedings in PRC No.23 of 2016 on the file of the Court of Addl. Judl. Magistrate of I Class, Bhongir. Therefore, the petitioners sought for re-calling of N.B.Ws. issued against A4, A6 to A12 in the above mentioned PRC.

6. The order referred above, dated 10.10.2018 is under challenge in this revision. On that day, A2 and A3 were present before the Court below. NBW was pending against A3 and therefore, he has filed a petition under Section 70 (2) Cr.P.C. and the said petition was allowed on cost of Rs.100/- which is payable to the Mandal Legal Services Authority. Remaining accused, who are A1, A4 to A13 were absent and N.B.Ws were pending against A1 and A5.

7. The petition filed for A4, A6 to A12 was dismissed and they were directed to appear on the next date of hearing. The order passed by the learned Magistrate is ambiguous.

8. Therefore, the order passed by the learned Magistrate is set aside. The petitioners are directed to file a petition under Section 70 (2) Cr.P.C. for re-call of N.B.Ws, and on filing such petition, the trial Court shall re-call N.B.Ws by passing appropriate orders.

9. Accordingly, the Criminal Revision Case allowed. Miscellaneous petitions, if any pending in this revision shall stand closed.

GUDISEVA SHYAM PRASAD, J

DATED: 14-12-2018

Hsd

