

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.810 OF 2019

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioner/accused No.1 to quash the non-bailable warrant issued against him by setting aside the order, dated 03.08.2018, passed in CrI.M.P.No.3220 of 2018 in L.P.C.No.93 of 2017 on the file of III Additional Chief Metropolitan Magistrate, Nampally, Hyderabad.

2. Heard learned counsel for the petitioner/accused No.1 and the learned Additional Public Prosecutor representing the respondent/State. Perused the record.

3. Learned counsel for the petitioner/accused No.1 would submit that as the petitioner/accused No.1 was apprehended by police, he could not appear before the Court below. In support of his submissions, to recall the non-bailable warrant issued against the petitioner/accused No.1, the learned counsel relied on a decision of this Court in **Chundru Ammannu v. Authority under Section 48 of the A.P. Shops & Establishments Act, 1988 and Assistant Commissioner of Labour, Kakinada, and another**¹, wherein, it was held that a non-bailable warrant can be recalled in the absence of an accused and the Court ought not to have refused to receive the application, which was filed in the absence of the accused, and ultimately, prayed to allow the petition.

¹ 2000 (1) ALD (CrI.) 585 (AP)

4. Learned Additional Public Prosecutor opposed the petition.

5. As seen from the record, on 03.08.2018, the petitioner/accused No.1 did not appear before the Court below and a representation was made by his counsel that he was arrested and bind over by the police, S.R. Nagar Police Station and he is apprehending arrest in the hands of the police. The said representation was made without any basis or record. The present case is L.P.C. case. Even after long lapse of time, the petitioner/accused No.1 did not choose to appear before the Court to get the non-bailable warrant recalled or to seek regular bail or to proceed with trial of the case. There are serious allegations against the petitioner/accused No.1. Therefore, there is justification in dismissing the subject application by passing the impugned order. There are no merits to allow the petition, as prayed for.

6. Accordingly, the Criminal Petition is dismissed.

Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

Dr. SHAMEEM AKTHER, J

February 13, 2019.
MD