THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.15789 OF 2019

O R D E R :

This writ petition is filed challenging the action of the 3rd respondent in trying to arrest the petitioners in connection with the Judgment dt.17.02.2009 passed by the learned Special Judge for Economic Offences-cum-VIII Addl.Metropolitan Sessions Judge, Hyderabad in SC.No.515 of 2007, without waiting for the decision of the Honourable Governor on mercy petition.

The case of the petitioners is that they were convicted in SC.No.515/2007, filed under Section 235(2) Cr.P.C. for the offence punishable under Section 307, 427, 447 & 506, r/w.34 IPC, by Judgment dt.17.02.2009 passed by the special Judge for Economic Offences-cum-VIII Addl.Metropolitan Sessions Judge, Hyderabad, whereby the petitioners were sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.500/- each under each count and in default of payment of fine, they shall suffer simple imprisonment for one month each. Aggrieved by the same, the 1st petitioner preferred Criminal Appeal No.226/2009 and petitioner Nos.2 and 3 preferred Criminal Appeal No.229/2009 before this Court and the same were dismissed by common order dt.06.02.2018, confirming the Judgment & Sentence passed by the trial Court. Thereafter, the petitioners preferred petitions for Special Leave to Appeal (Crl.) No.8853-8854/2018 before the Apex Court, against the Judgment of this Court in criminal appeals and the same have been dismissed on 29.03.2019. In view of dismissal

of SLPs petitioners submitted representation before the Honourable Governor of Telangana State, seeking to grant pardon and to suspend the sentence by invoking the powers under Article 161 of the Constitution of India. Meanwhile, in view of the dismissal of SLPs, the trial Court issued NBWs against the petitioners. Against the said NBWs the petitioners filed Crl.M.P in SC.No.515/2007 before the VIII Addl.Metropolitan Sessions Judge, Hyderabad, seeking to recall the NBWs, but the Sessions Judge having received the petition refused to entertain the same and returned the same without any endorsement and also directed the petitioners' counsel to advise the petitioners to surrender forthwith. As such, the petitioners filed one more representation dt.16.07.2019 before the Honourable Governor. Present writ petition is filed declaring the action of 3rd respondent in trying to arrest the petitioners without waiting for decision of the Honourable Governor on the mercy petition filed by the petitioners.

Heard learned counsel for the petitioners who submits that the trial Court instead of taking up and numbering the Crl.M.P filed by the petitioners, directed the counsel for petitioners to advise the petitioners to surrender, forthwith.

On the other hand learned Assistant Government Pleader for Home submits that when the Honourable Apex Court confirmed the conviction, question of recalling the warrants does not arise.

In this case it is to be seen that no provision of law is brought to my notice by the petitioners saying that the Trial Court has power to

recall the NBWs issued, that too, when conviction is upheld by the Apex Court; and no provision is brought to my notice that pending consideration of the Mercy petition before Honourable Governor, the sentence can be suspended.

In view of the same, the writ petition is misconceived and I do not see any merit in the writ petition.

Accordingly, the writ petition is dismissed. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

26.07.2019
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THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No. 15789 of 2019

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