

THE HON'BLE JUSTICE G.SRI DEVI

Criminal Petition No.7204 of 2019

ORDER:

The Criminal Petition has been filed under Section 482 of Cr.P.C. by the petitioner, who is Accused No.1, with a prayer to recall the Non-Bailable Warrant (the NBW) issued against the petitioner in P.R.C.No.62 of 2016 on the file of the VI Addl.Chief Metropolitan Magistrate, Hyderabad.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent-State and perused the material on record.

3. It is submitted on behalf of the petitioner that the above said case was posted on 03.05.2018 for appearance of the petitioner but the petitioner could not be able to appear before the Court below due to which the Court was pleased to issue the NBW against the petitioner. It is also submitted that the petitioner had met with an accident on 01.05.2018 and got fracture injury to his spinal cord due to which there was a gap between the L1 and L2 bones of his spinal cord and because of such injury, the petitioner was not in a position to move from the bed and after undergoing countryside treatment and after taking complete bed rest, he became fit to appear before the Court and filed an application to recall the NBW issued against him by the Court on 03.05.2018. However the said petition was dismissed by the Court on 23.10.2019. It is also submitted that the absence of the petitioner on that day, when the Court issued NBW, was neither wilful nor wanton but for the reason that he was not in a

position to move due to accident. It is further submitted that the petitioner undertakes to appear before the Court below regularly and also ready to abide by the terms and conditions imposed by the Court.

4. Perused the order passed by the learned VI Addl.Chief Metropolitan Magistrate, Hyderabad in CrI.M.P.No.1403 of 2019 in PRC No.62 of 2016 of the Langer House Police Station wherein it is categorically held that the case in Cr.No.59 of 2014 for the offences punishable under Sections 489-B and 489-C IPC was numbered as PRC No.62 of 2016. The surety notices were also ordered. Subsequently, the accused appeared before the Court on 21.03.2018 and on the same day relevant copies to the petitioner were served and the matter was posted for committal of the case to the Court of Sessions and as directed by the Court, the petitioner was to furnish two sureties with personal bond for Rs.5,000/- and posted the matter to 03.05.2018. However, the petitioner remained absent from 10.07.2018 to 17.10.2019 for which in the meantime, the NBW was issued against him. On 17.10.2019 the petition to recall the NBW against the accused was filed stating therein that he was suffering from illness but not filed any single document before the Court concerned showing his illness. In para-3 of the petition, it was also mentioned that there is a gap between the L1 and L2 bones of his spinal cord, however no x-ray was also filed before the trial Court. As per the version of the petitioner, as he suffered from spinal cord injury and was not in a position to move. After his appearance before the Court on 21.03.2018, he failed to appear before the Court till 17.10.2019. Accordingly, the trial Court felt that mere filing the

petition without any medical record of the accused, the prayer to recall the NBW cannot be considered as it is a PRC matter registered under Section 489-B and 489-C of IPC. It is also further held that the petitioner did not approach the Court with clean hands in spite of giving an opportunity and accordingly dismissed the petition.

5. The learned counsel for the petitioner reiterated the same grounds as taken before the Court below and not filed any documents whatsoever with regard to accident showing the bona fides of the petitioner for his non-appearance before the trial Court during the period from 21.03.2018 to 17.10.2019. However, the learned counsel for the petitioner submits that a lenient view may be taken.

6. In the light of the prayer made by the learned counsel for the petitioner and in the interest of justice, this Court is inclined to direct the petitioner that in case the petitioner surrenders before the trial Court and files an application to recall the NBW issued against him, within seven (7) days from today, the learned VI Addl.Chief Metropolitan Magistrate, shall consider his application and dispose of the same in accordance with law.

7. With the above direction, the Criminal Petition is disposed of.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE G. SRI DEVI

Dt.11.11.2019
Vvr.





