

HONOURABLE JUSTICE G. SRI DEVI

CRIMINAL PETITION No.7646 of 2019

ORDER:

This Criminal Petition, under Section 482 read with 70 (2) of the Code of Criminal Procedure, 1973, is filed by the petitioners/accused seeking to recall the Non-Bailable Warrants issued against them on 06.11.2019 in C.C.No.31 of 2019 pending on the file of learned II Special Magistrate, Hasthinapuram, L.B.Nagar.

2. Heard the learned counsel for the petitioners, learned Additional Public Prosecutor appearing for respondent No.1-State and perused the material available on record.

3. As seen from the record, on 06.11.2019 the petitioners/accused filed a petition under Section 317 Cr.P.C. before the trial Court stating that petitioner/accused No.2 is out of station and petitioner/accused No.3 is suffering from ill-health. The Court below by docket order, dated 06.11.2019, held thus:

“Since the matter is posted for examination of accused U/s.313 Cr.P.C on 31.10.2019 and when accused absent is condoned on petition posted again to 4.11.2019 and on 04.11.2019 the Advocates abstained from court work again posted today and the accused absent. Therefore, I see no reason to condone the absence of the accused today, accordingly petition is dismissed.”

4. Learned counsel for the petitioners would submit that the petitioner/accused No.2 is out of station and petitioner/accused No.3 is suffering from ill-health on 06.11.2019, therefore, according to the petitioners their absence on that date before the trial Court was neither wilful nor wanton, but only due to health

problem and ultimately, prayed to recall Non-bailable warrants issued against them.

5. In the light of the submissions made by learned counsel for the petitioners and since absence of the petitioners before the Court below on 06.11.2019 is not shown to be wilful or wanton and it is only due to ill-health of the petitioners, hence the impugned order is liable to be set aside.

6. Accordingly, the Criminal Petition is allowed and the docket order, dated 06.11.2019 passed in C.C.No.31 of 2019 on the file of learned II Special Magistrate, Hasthinapuram, L.B.Nagar, is set aside and Non-bailable warrants issued against the petitioners/accused are re-called. However, the petitioners/accused are directed to be personally present before the trial Court within a period of fifteen (15) days from the date of receipt of a copy of this order and shall furnish personal bond for a sum of Rs.15,000/- (Rupees Fifteen thousand only) each with two sureties for a like sum each to the satisfaction of the said Court.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE G. SRI DEVI

16th December, 2019

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Date:16.12.2019

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