

HONOURABLE JUSTICE G. SRI DEVI
CRIMINAL PETITION No.234 of 2020

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C. seeking to quash the order dated 27.12.2019 in CrI.M.P.No.3922 of 2019 in C.C.No.350 of 2009 passed by the learned XI Additional Chief Metropolitan Magistrate, Secunderabad.

2. Heard the learned counsel for the petitioner and perused the material on record.

3. The petitioner herein filed the above petition under Section 70 (2) Cr.P.C. on 27.12.2019 to re-call the N.B.W. issued against him.

4. In the affidavit, filed in support of the Criminal Petition, it is stated by the petitioner that due to his non appearance or his counsel before the Court below, N.B.W. was issued against him. It is further stated that the petitioner is suffering from CLD Liver Heptagon for last several years and hence, he is not able to move out of house; that for the purpose of treatment, the petitioner was staying in Visakhapatnam; and that recently, through his counsel he came to know about issuance of NBW against him. The petitioner further pleaded that his non-appearance before the Court below was neither intentional nor deliberate and as such, he filed the petition to re-call N.B.W. pending against him in the light of the judgment reported in *Shaik Yousuf V State of Andhra Pradesh through P.S. Asif Nagar*¹.

¹ 2001 Law Suit (A.P.) 1547

4. The said petition was dismissed by the trial Court on the ground that the petitioner was not diligent and no scrap of medical record is submitted by him. Hence, this Criminal Petition.

5. Learned counsel for the petitioner though raised various grounds to quash the aforesaid order, however, during the course of arguments, he submits that the petitioner shall abide by the conditions imposed by this Court if he is directed to surrender before the concerned Court on a specific date.

6. In the light of the submission made by the learned counsel for the petitioner, the order dated 27.12.2019 in CrI.M.P.No.3922 of 2019 in C.C.No.350 of 2009 passed by the learned XI Additional Chief Metropolitan Magistrate, Secunderabad, is hereby quashed. The petitioner/accused is directed to surrender before the learned XI Additional Chief Metropolitan Magistrate, Secunderabad, on or before 24.01.2020 and file an application to re-call N.B.W. issued against him and on filing such an application, the trial Court shall consider the same and re-call the N.B.W. issued against the petitioner/accused on the same day on his executing a personal bond for a sum of Rs.25,000/- with two sureties for a like sum each to the satisfaction of the said Court.

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

8. Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE G. SRI DEVI

09th January, 2020.
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