

HONOURABLE JUSTICE G. SRI DEVI

CRIMINAL PETITION No.372 of 2020

ORDER:

This criminal petition is filed under Section 482 Cr.P.C., seeking to quash the order dated 12.12.2019 passed in CrI.M.P.No.6861 of 2019 in C.C.No.54 of 2016 by the learned XII Additional Chief Metropolitan Magistrate, Hyderabad.

2. Heard learned counsel for the petitioner/A1 and learned Additional Public Prosecutor appearing for the respondent-State.

3. The brief facts are that the petitioner/A1 was charged for the offences under Sections 420,406 and 506 IPC and after filing of charge sheet, summons were served upon him. Since the petitioner failed to appear before the trial Court, NBW was issued against him and he was remanded to judicial custody and later, he was enlarged on bail on condition of his executing a personal bond for a sum of Rs.5,000/- with two sureties for a like sum each to the satisfaction of the trial Court. The petitioner states that due to chronic ill-health, he could not attend the trial Court regularly, due to which, NBW was issued against him. The petition filed by the petitioner to recall NBW was dismissed by the trial Court by the order impugned. Challenging the said order, the present criminal petition is filed.

4. Learned counsel for the petitioner/accused submits that the learned Magistrate has failed to exercise the jurisdiction vested on him and he ought to have considered the reasons made by the petitioner in his recall petition.

5. A perusal of the order dated 12.12.2019, it reflects that the learned Magistrate has specifically stated that the CC is pending since 2016 without any progress and that the petitioner/A1 was remanded to judicial custody on execution of NBW on 13.02.2019 and later, he was enlarged on bail. Again, as the petitioner was called absent on each date of hearing, the trial Court issued NBW against him, and finally, issued notice to sureties also. The trial Court further observed that the petitioner did not produce any document to show that he was suffering from ill health and he was not in a position to walk without any support and that the xerox copies of medical prescription and reports do not disclose that the petitioner was suffering from liver cirrhosis and he was unable to walk properly without the help of escort, and accordingly, dismissed the petition.

6. A perusal of the medical certificate filed by the petitioner along with the petition transpires that the petitioner is suffering from CLD, liver heptagon and he need rest and further evaluation of his liver function and he need liver transplant evaluation. The trial Court while going through the medical record has pointed out that the said record did not disclose that the petitioner was suffering from liver cirrhosis or he was unable to walk properly without the support of escort. However, during arguments, learned counsel for the petitioner submits that the petitioner is ready to abide by any condition imposed by this Court and he shall appear before the trial Court on each and every date of hearing till conclusion of trial.

7. In view of the submissions made by the learned counsel for the petitioner/A1 and in view of the nature of offence allegedly

committed by him, the order dated 12.12.2019 in CrI.M.P.No.6861 of 2019 in C.C.No.54 of 2016 is hereby quashed, and the petitioner/A1 is directed to appear before the trial Court on 28.01.2020 positively, and on his appearance, the trial Court shall recall the warrant pending against the petitioner/A1 and release him on bail on his furnishing a personal bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) with two sureties for a like sum each to the satisfaction of the trial Court. Further, the petitioner/accused shall appear personally before the trial Court on each date of hearing till conclusion of the trial, and in violation of any such condition, liberty granted to him shall stand cancelled automatically.

8. Accordingly, the Criminal Petition is allowed.

9. Miscellaneous applications, if any pending in this criminal petition, shall stand closed.

21st January, 2020.

G. SRI DEVI, J

Note:
Issue CC tomorrow.

sj