

HON'BLE JUSTICE G. SRI DEVI

CRIMINAL PETITION No.2768 of 2017

ORDER :

This Criminal Petition is filed under Section 482 Cr.P.C to set aside the order, dated 28.02.2017 passed in CrI.M.P.No.441 of 2017 in CC.No.390 of 2015 by the X Metropolitan Magistrate, Cyberabad at Malkajgiri.

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

3. The petitioners-A2 to A4 filed the petition under Section 70 (2) Cr.P.C. to recall the N.B.Ws. issued against them for their absence. The learned Magistrate, vide impugned order dismissed the petition on the ground that though several opportunities were given, they did not appear before the Court and if N.B.Ws. are recalled, it may cause prejudice to the prosecution and the further proceedings may be stalled. Hence, this petition.

4. During the course of hearing, learned counsel for the petitioners submits that the petitioners never received any summons from the Court below at any point of time. He further submits that the petitioners were not informed by the Court below or police regarding proceedings during that period and without observing and verifying the same, the Court below issued N.B.Ws. basing

on the report filed by the police and hence, he prays to set aside the order.

5. Taking into consideration the facts and circumstances of the case and the submission made by the learned counsel for the petitioners and in order to secure the ends of justice, the order, dated 28.02.2017 passed in CrI.M.P.No.441 of 2017 in CC.No.390 of 2015 by the X Metropolitan Magistrate, Cyberabad at Malkajgiri, is hereby set aside. The petitioners-A2 to A4 are directed to surrender before the X Metropolitan Magistrate, Cyberabad at Malkajgiri, positively by 21.01.2020 and on such surrender, N.B.Ws issued against them shall be re-called on each of them executing a personal bond for Rs.30,000/- with two sureties for a like sum each to the satisfaction of the said Court. Further, the petitioners are directed to appear personally before the Court concerned on each date of hearing till conclusion of trial. In case the petitioners fail to comply with the above conditions, the order passed by this Court re-calling N.B.Ws. shall automatically stands cancelled and the petitioners shall be taken into custody forthwith.

6. With the above direction, the Criminal Petition is disposed of. Miscellaneous petitions, if any pending shall stand closed.

JUSTICE G.SRI DEVI

DATED: 08.01.2020
Hsd



