

HONOURABLE SRI JUSTICE P. KESHA RAO

WRIT PETITION No.31045 of 2013

ORDER:

Heard the learned counsel for the petitioner as well as the learned Government Pleader for respondent Nos.1 to 3.

The prayer sought in the writ petition is as under:

“... to issue a writ, order or direction more particularly one in the nature of writ of mandamus, declaring the action of the respondent Nos.1 to 3 in not executing the non-bailable warrants issued against the 4th respondent herein on 15.03.2012 in connection with C.C.No.327 of 2006 on the file of the VII Metropolitan Magistrate, Cyberabad, Hayathnagar, R.R. District as illegal, arbitrary and violative of Article 21 of the Constitution of India and consequently direct the respondents No.1 to 3 to execute the non-bailable warrants on the 4th respondent.”

During the course of hearing, the learned Government Pleader placed on record written instructions dated 22.11.2019 issued by the Sub-Inspector of Police, Kodad Town Police Station, Nalgonda District.

From a perusal of the said written instructions, it is revealed that the Station House Officer i.e., the 3rd respondent herein did not receive any orders from the Court below to execute the non-bailable warrant issued against the 4th respondent. It is also mentioned that on enquiry by the 3rd respondent it was disclosed that no such orders are passed by the XXIV Additional Metropolitan Magistrate, Hayathnagar, Ranga Reddy District in C.C.No.327 of 2006.

Learned counsel for the petitioner produce a copy of the docket order dated 15.03.2012 issued by the XXIV Additional Metropolitan Magistrate, Cyberabad at Hayathnagar.

A perusal of the said docket order clearly indicates issuance of non-bailable warrant to accused No.5 i.e., the 4th respondent herein. In those circumstances, the contention of respondent Nos.1 to 3 that no such orders were issued on 15.03.2012 is not correct and contrary to the record.

However, the learned Government Pleader submits that issuance of non-bailable warrant is not in dispute. But, the copies of the warrant are not served on the 3rd respondent.

Learned counsel for the petitioner brought to the notice of this Court that along with the reply affidavit the petitioner has filed a copy of warrant of arrest non-bailable issued in C.C.No.327 of 2006 to arrest the 4th respondent.

Learned Government Pleader submits that issuance of non-bailable warrant is not entered in the general diary and to that effect the then Station House Officer and the present Station House Officer, after verifying, came to know that no such warrant has been served on the 3rd respondent.

However, the copy of the warrant of arrest non-bailable issued under Section 75 of the Code of Criminal Procedure and filed at page No.9 of the material papers filed along with the reply affidavit belie the contention of the 3rd respondent, as a copy of the said warrant has been received by him on 05.11.2013. Therefore, the 3rd respondent is directed to take

a copy of the warrant of arrest non-bailable from the XXIV Additional Metropolitan Magistrate, Cyberabad at Hayatnagar within three weeks from the date of receipt of a copy of this order and execute the said warrant within three weeks thereafter.

With the above direction, the writ petition is disposed of.
No order as to costs.

Miscellaneous petitions, if any, shall also stand disposed of.

Date: 06.01.2020.
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P. KESHAVA RAO, J

