

THE HONOURABLE SRI JUSTICE K. LAKSHMAN**CRIMINAL PETITION No.2506 OF 2022****ORDER:**

This Criminal Petition under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), is filed seeking to cancel the Non-Bailable Warrants issued against the petitioners/Accused 1 to 5 in CrI.MP No.1917 of 2015 in Crime No.221 of 2014 on the file of XXII Additional Chief Metropolitan Magistrate at Secunderabad and to quash the same. The petitioners herein are accused Nos.1 to 5 in the said crime.

2. Heard the learned counsel for the petitioners and learned Public Prosecutor for the respondent-State. Perused the record.

3. A perusal of the record would reveal that, on the complaint lodged by the 2nd respondent herein, police Tukaramgate have registered a case in Crime No.221 of 2014 against the petitioners herein for the offences punishable under Sections 323 and 506 of Indian Penal Code and Section 3(1)(x) of SC/St (POA) Act, 1989. After completion of investigation, the Investigating Officer has closed the FIR on the ground that there is lack of evidence. The 2nd respondent has filed protest petition vide CrI.M.P.No.1917 of 2015 and the same was allowed on 22.01.2021 by the learned

XXII Additional Chief Metropolitan Magistrate, Secunderabad. While taking cognizance, the learned Magistrate instead of issuing summons to the petitioners herein, straight away issued Non Bailable Warrants against the petitioners herein. The same is contrary to procedure laid down under law. The learned Magistrate, while taking cognizance has to issue summons to the accused, but straightaway cannot issue Non-Bailable Warrants against the petitioners herein. The matter is at PRC stage.

4. In view of the above, this Criminal Petition is disposed of granting liberty to the petitioners herein to file an application under Section 70(2) of Cr.P.C. seeking recall/cancellation of Non-Bailable Warrants issued against them. On filing of such an application, learned XXII Additional Chief Metropolitan Magistrate, Secunderabad is directed to consider the same and recall the Non Bailable Warrants issued against the petitioners herein on imposing certain conditions to its satisfaction on the same day.

Miscellaneous Petitions, pending if any, shall stand closed.

K. LAKSHMAN, J

Date: 21.03.2022
ns/prv