IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

WEDNESDAY, THE TWENTIETH DAY OF MARCH, TWO THOUSAND AND NINETEEN

:PRESENT: THE HON'BLE DR. JUSTICE B.SIVA SANKARA RAO*

I.A.NO.1 OF 2019 IN CRIMINAL APPEAL NO: 1071 OF 2014

Between:

G.Adilaxmi, W/o. Late G.S. Mohan Rao, R/o. 12-127/A 10, Flat No. 202, Sai Sadan Apartments, P & T Colony, Dilsukhnagar, Hyderabad-500 060.

Petitioner/Respondent (Respondent No.1 in Crl.A. No. 1071 of 2014 On the file of the High Court)

AND

1. State of Telangana, rep. by its Public Prosecutor,

Respondent/Respondent (Respondent No.2 in Crl.A. No. 1071 of 2014 On the file of the High Court)

2. K.Jayalaxmi, W/o. Late Achyutha Rao, R/o. 19-80/A, OP & T Colony, Dilsukhnagar, Hyderabad-500 060.

Respondent/Appellant (Appellant in –do-)

Petition under Section 70 (2) of Cr.P.C. and 482 of Cr.P.C., praying that in the circumstances stated in the petition, the High Court may be pleased to recall the warrant issued on 04-02-2019 and the consequential order dated 28-02-2019 reminder order in Crl. Appeal No. 1071 of 2014, pending disposal of Crl.A. No. 1071 of 2014 on the file of the High Court.

Counsel for the Petitioner

SMT. P.REVATHI

Counsel for Respondent No.1

PUBLIC PROSECUTOR

Counsel for Respondent No.2

SRI N.V.ANANTHA KRISHNA

The petition coming on for hearing, upon perusing the petition filed herein, and the earlier order of the High Court dated 04.02.2019, the Court made the following;

ORDER:

"Heard learned counsel for the complainant in the revision against the concurrent findings of the Court below acquitting the accused/1st respondent and also learned counsel for the 1st respondent/accused and the 2nd respondent-State represented through Public Prosecutor and perused the docket order of this Court, dated 04.02.2019, where it is observed that counsel for the appellant/complainant present and reported ready and there is no representation for respondent No.1/accused though the matter posted under the caption 'for orders' and thereby directed Registry to issue Non-Bailable Warrant against the accused/respondent No.1 executable through the Commissioner of Police concerned by posted the matter to 25.02.2019 and when posted on 28.02.2019, there was a direction to issue reminder with regard to the order, dated 04.02.2019, to the concerned authority.

It is now seeking to set aside the said order, the present petition is filed.

As held by the Apex Court in Bani Singh v. State of U.P. (AIR 1996 SC 2439) by the Constitution Bench referring to Section 386 and 390 Cr.P.C. that in an appeal even accused failed to attend, the Court can dispose of the appeal on merits, same is equally in relation to the respondent. Once such is the case, there is no need of issuing Non-Bailable Warrant, but for to decide the appeal on merits even the accused failed to attend against the concurrent findings of acquittal of the case, which is the subject matter of the revision.

Having regard to the above, I.A.No.1 of 2019 is allowed by setting aside the docket order, dated 04.02.2019, passed by this Court."

> Sd/- B.S.CHIRANJEEVI JOINT REGISTRAR

//TRUE COPY//

To,

- 1. The Addl. Metropolitan Sessions Court, Cyberabad, at L. B. Nagar, Ranga Reddy District.
- 2. The IX Special Magistrate, Hastinapuram, at L.B.Nagar, Ranga Reddy District.
- The Commissioner of Police, Rachakonda Commissionerate at Sainikpuri. (BY RPAD)
 The Commissioner of Police, Rachakonda Commissionerate at Gachibowli (BY RPAD)
- 5. Two CCs to Public Prosecutor, High Court of Telangana at Hyderabad (OUT)
- 6. One CC to Sri N.V.Anantha Krishna, Advocate (OPUC)
- 7. One CC to Smt. . Revathi, Advocate (OPUC)
- 8. One spare copy

HIGH COURT

DR.SSRB,J

DATE: 20-03-2019

ORDER $^{ / }$

I.A.NO.1 OF 2019 IN CRL.A. NO. 1071 OF 2014

WARRANT RECALLED

