

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

Crl.A.No.1392 of 2005

JUDGMENT :

None appears for appellant even though the appeal is listed under the caption 'For Dismissal'.

2. There has been no representation on behalf of appellant from 11.03.2015 onwards. Previously, when the appeal was listed for hearing none appeared for appellant and this Court on 06.07.2012 had cancelled the bail granted to appellant and directed the trial court to take steps for apprehension of accused. Till date, the accused had not been apprehended and produced before the Court. The conduct of accused makes it clear that he had abandoned the appeal and has no intention to prosecute it.
3. In **Surya Baksh Singh v. State of Uttar Pradesh**, the Supreme Court held that there is an alarming and sinister increase in instances where convicts have filed appeals apparently with a view to circumvent and escape undergoing the sentences awarded against them and the routine is to file an appeal, apply and get enlarged on bail or get exempted from surrender, and thereafter willfully become untraceable or unresponsive. It held that there is obligation cast on the appellate court to decide an appeal on its merits only in the case of death references, regardless of whether or not an appeal has been preferred by the convict. It held that when the court encountered a recalcitrant appellant/convict who shows negligible interest in prosecuting his appeal, none of the sections in Chapter XXIX of Cr.P.C. dealing with appeals, precludes or dissuades it from dismissing the appeals. It followed the decision in **Kishan Singh v. State of**

U.P., wherein the court had held “where the appellant has been sentenced to imprisonment and he is not in custody when the appeal is taken up for preliminary hearing, the appellate court can require him to surrender, and if he fails to obey the direction, other considerations may arise, which may render the appeal liable to be dismissed without consideration of the merits.” It held that this can be done in view of inherent power under Section 482 Cr.P.C. conferred on the appellate court.

4. Having regard to the said decisions, this Criminal Appeal is dismissed for non-prosecution.
5. As a sequel, miscellaneous applications pending, if any in this Criminal Appeal, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 15-04-2015

Ndr/*