

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION No.1121 of 2015

ORDER:

Heard both sides.

The petitioners/Accused Nos. 1 to 3 are challenging the Docket Order dated 02.01.2015 passed by the learned Additional District and Sessions Judge, Markapur, Prakasam District, wherein the learned Judge dismissed CrI.M.P.No.374 of 2014 in Criminal Appeal No.188 of 2014 on the ground that the petition was filed beyond 30 days.

The impugned sentence in C.C.No.61 of 2012 was passed by the learned Additional Judicial Magistrate of First Class, Markapur, on 18.11.2014 convicting the petitioners/Accused Nos. 1 to 3. Aggrieved thereby, they filed appeal before District and Sessions Court, Ongole, Prakasam District, on 12.12.2014. The appeal was numbered and made over to VI Additional District and Sessions Judge, Markapur. The petitioners/A.1 to A.3 filed CrI.M.P.No.374 of 2014 under Section 389(1) Cr.P.C seeking suspension of sentence of imprisonment passed by the trial Court, wherein the present impugned order was passed by the learned VI Additional District and Sessions Judge, Markapur on 02.01.2015 stating that the petition was filed beyond 30 days and hence dismissed.

I am afraid this Order is incorrect for the reason that the Criminal Appeal was filed within time and there is no time limit for filing the petition under Section 389(1) Cr.P.C and the learned Judge has not stated how he arrived at the conclusion that the petition was filed beyond 30 days and how it was barred by limitation, if any. In these circumstances, the impugned Order is liable to be set aside.

Accordingly, the Criminal Petition is allowed and the impugned order is set aside. The petitioners/Accused Nos. 1 to 3 are granted

suspension of sentence and bail till the disposal of the appeal on each of them executing a bond for Rs.10,000/- (Rupees Ten Thousand) with two sureties for a like sum to the satisfaction of the trial Court.

As a sequel, miscellaneous petitions, if any, pending shall stand closed.

U.DURGA PRASAD RAO,J

26-02-2015
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Crl.P. No. 1121 of 2015

Dt. 26.02.2015

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