

THE HON'BLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.1185 of 2015

ORDER:

1. This Revision is filed by the petitioner-complainant against the order dated 20.3.2015 passed in CrI.R.P.No.56 of 2014 on the file of the Principal Sessions Judge, Vizianagaram.

2. The petitioner-complainant filed a complaint under Sections 138 and 142 of the Negotiable Instruments Act against the 1st respondent before the Additional Judicial Magistrate of First Class, Vizianagaram. When the matter was posted for appearance of the petitioner-complainant, there was no representation on behalf of the petitioner-complainant and therefore, the learned Magistrate dismissed the complaint for default and acquitted the accused. Aggrieved by the same, the petitioner filed the above CrI.R.P. before the Principal Sessions Judge, Vizianagaram. The learned Sessions Judge dismissed the revision petition confirming the orders of the learned Magistrate. Hence, the petitioner filed the present revision.

3. Heard and perused the material available on record.

4. It is pertinent to note that when a complaint is dismissed for non-prosecution, it amounts to acquittal. In the order of the learned Magistrate, it was clearly mentioned that the 1st respondent is acquitted. Against the order of an acquittal, the petitioner-complainant ought to have preferred an appeal before the Court concerned. But the petitioner has erroneously preferred revision petition before the learned Principal Sessions Judge. The learned Sessions Judge without observing as to the maintainability of the revision petition, confirmed the order of the trial Court. The present revision case is not maintainable and therefore, the same is liable to be dismissed. However, for the mistake of the Counsel, the parties cannot be

penalized.

5. The Criminal Revision Case is accordingly dismissed as not maintainable. However, the petitioner-complainant is at liberty to prefer an appeal against the order passed by the trial Court before the appropriate forum, if he is so advised. On such appeal being filed, the Court concerned is directed to consider the same in accordance with law. Consequently, the miscellaneous petitions pending, if any, shall stand dismissed.

RAJA ELANGO, J

Dated:3.7.2015

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