

THE HON'BLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.3131 OF 2015

ORDER:

1. The petitioner-accused No.3 preferred the present Criminal Revision Case by invoking the provisions under Sections 397 and 401 of the Code of Criminal Procedure being aggrieved over the order dated 28.10.2015 passed in CrI.A.No.365 of 2012 by the Family Court-cum-Additional District & Sessions Judge, Guntur.

2. The 2nd respondent herein filed a private complaint before the V Additional Junior Civil Judge, Guntur, against the petitioner and others for the offence under Sections 138 and 142 of the Negotiable Instruments Act. The learned Magistrate took the complaint on file only against the petitioner-A3 only and numbered it as C.C.No.132 of 2009. After conducting the trial, the learned Magistrate convicted and sentenced the petitioner to undergo simple imprisonment for a period of one year and to pay a fine of Rs.40,00,000/- in default to undergo simple imprisonment for one month. Aggrieved by the same, the petitioner filed the above CrI.A.No.365 of 2012 before the Family Court-cum-Additional District & Sessions Judge, Guntur. The learned Sessions Judge passed the following order:

“Appellant absent. Respondent absent. No representation for both though posted conditionally. Hence, the appeal is dismissed for default. Sentence imposed by the lower Court is confirmed. Communicate and address the lower Court for execution of sentence.”

Aggrieved by the said order, the petitioner filed this revision.

3. Heard and perused the material available on record.

4. It is to be noted that when the appeal is admitted for hearing, if the parties are not present, it is the duty of the lower appellate Judge to peruse the record and pass a speaking order mentioning the reasons for confirmation of the conviction or

modification of sentence or any other orders. The order under revision is passed without assigning any reasons for confirmation of the conviction and sentence imposed by the trial Court. Therefore, this Court is of the view that this is a fit matter to be remanded to the lower appellate Court to pass appropriate orders after hearing both parties.

5. The order under revision is set aside and the Crl.A.No.365 of 2012 on the file of Family Court-cum-Additional District & Sessions Judge, Guntur, is restored to its file. The learned Judge of the Family Court, Guntur is directed to issue notice to the complainant also and pass appropriate orders after hearing both the parties. Further, the petitioner is directed to appear before the Family Court so as to put forth his case. The learned Judge of Family Court is also directed to dispose of the appeal, within a period of three months from the date of receipt of a copy of this order.

6. Accordingly, the Criminal Revision Case is disposed of. Consequently, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE RAJA ELANGO

Dated: 16.12.2015

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THE HON'BLE SRI JUSTICE RAJA ELANGO

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