

**THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO**

**Crl.A.No.1380 of 2005**

**JUDGMENT :**

On the ground that the counsel for appellant has not appeared and argued the matter, this Court on 13.07.2012 had vacated the order dt.13.09.2005 enlarging the appellant on bail, and had directed the trial court to take appropriate steps for apprehension of the appellant/accused.

2. The learned Public Prosecutor has secured a report from the Station House Officer, PS Narayanaguda stating that the whereabouts of appellant are not known.
3. It is thus clear that in spite of efforts being made by this Court to secure the presence of appellant, the accused has not appeared. It is therefore clear that appellant had abandoned the appeal, and has no intention to prosecute it.
4. 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 wilfully 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.

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

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**JUSTICE M.S.RAMACHANDRA RAO**

Date: 15-04-2015

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