

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No. 176 of 2015

JUDGMENT:-

The present Criminal Revision Case is filed under Sections 397 and 401 Cr.P.C. aggrieved by the order dated 08.01.2014 passed in CrI.A.No.157 of 2010 on the file of the V Additional District & Sessions Judge at Bhongir wherein and whereunder the appeal was dismissed due to non-representation on behalf of the petitioners herein/accused.

The facts in issue are as under:

The petitioners were tried in C.C.No.5 of 2006 (old C.C.No.858 of 2003) on the file of the Principal Junior Civil Judge, Bhongir, for the offences punishable under Sections 27(b)(ii) and 22(3) of the Drugs and Cosmetics Act for violation of Sections 18(c) and 22(1) (cca) of the said Act. After a full-fledged trial, the petitioners were convicted and sentenced to suffer rigorous imprisonment for a period of one year and to pay fine of Rs.5,000/- each, in default, to suffer simple imprisonment for three months each. Challenging the same, the petitioners filed CrI.A.No.157 of 2010 before the Court of V Additional District & Sessions Judge, Bhongir. On 08.01.2014 when the appeal was taken up for hearing, there was no representation on behalf of the petitioners. Hence, the learned Sessions Judge dismissed the appeal for default. The same is questioned in this revision.

Heard the learned counsel for the petitioners and the learned Public Prosecutor.

It is to be noted that time and again the Apex Court has consistently held that appeals against convictions cannot be dismissed for default. The appellate Court ought to have passed an order on merits either by taking the help of the Public Prosecutor or appointing an Advocate from the legal aid. Since it is a case of conviction and as no order came to be passed on merits, the request of the petitioners can be considered.

In the result, the Criminal Revision Case is allowed. The order under challenge is set aside and Criminal Appeal No.157 of 2010 on the file of the V Additional District & Sessions Judge at Bhongir is restored to its file. The learned Sessions Judge is directed to dispose of the appeal on merits, at the earliest.

Consequently, miscellaneous petitions, if any, pending in the criminal revision case shall stand closed.

C. PRAVEEN KUMAR, J

9th February, 2015

Note: Furnish CC in three days.

(b/o)

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