

THE HON'BLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.2532 of 2015

ORDER:

This revision is preferred challenging the order, dated 14.08.2014, passed in CrI.A. No. No.839 of 2014, in Crime by the V Additional Metropolitan Sessions Judge (Mahila Court), Hyderabad.

Heard and perused the material available on record.

The petitioner – complainant filed a private complaint before the IX Additional Chief Metropolitan Magistrate, Hyderabad, against the accused for the offence under Section 138 of the Negotiable Instruments Act. The said complaint was taken on file by the learned Magistrate in CC No.189 of 2013 (old case No.839 of 2012) and summons were issued to the accused. Thereafter, during the course of trial of the case the petitioner was absent on several adjournments. Therefore, the trial Court dismissed the said complaint. Against the said order, the petitioner preferred an appeal before the V Additional Metropolitan Magistrate, (Mahila Court), Hyderabad. The appellate Court, after perusing the order of the trial Court, dismissed the appeal through the impugned order. Aggrieved over the same, the present revision is filed.

Learned counsel for the petitioner – complainant submitted that the orders of the trial Court as well as the appellate Court are contrary to law, illegal and perverse and the petitioner was attending the Court regularly on earlier occasions and since non-availability of the Presiding Officer, the case was adjourned from time to time and hence, the petitioner could not able to present on the date of dismissal of the complaint. He further submitted that a huge amount was involved in the case and the petitioner is able to prove his case before the trial

Court and his non-appearance before the trial Court is neither wilful nor wanton and hence, an opportunity may be given the petitioner.

In view of the above submissions of the learned counsel for the petitioner and having regard to the facts and circumstances of the case, without expressing any opinion on the merits of the case, this Criminal Revision Case is disposed of with the following directions:

The docket order, dated 03.02.2014, passed in C.C. No.189 of 2013 (old case No.839 of 2012), by the XIX Special Magistrate, Hyderabad and also the judgment, dated 14.08.2015, passed in CrI.A. No.839 of 2014 are set aside and the trial Court is directed to restore the complaint in the above CC, to file and issue notice to the accused and the petitioner is directed to pay costs of Rs.5,000/- to the accused.

Accordingly, the Criminal Revision Case is disposed of with costs. Consequently, the Miscellaneous Petitions pending, if any, shall stand closed.

RAJA ELANGO, J

February 04, 2016.

KTL