

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.215 of 2016

ORDER:

1. This Criminal Revision Case is filed by the petitioner-complainant aggrieved by the order dated 4.11.2015 passed in S.T.C.No.58 of 2015 by the VI Additional Junior Civil Judge-cum-Special Magistrate, Tirupathi.
2. The Order under revision reads as follows:

“Complainant present. Accused absent. NBW pending. Process not paid till 5 P.M. No representation for complainant. Hence, complaint is dismissed.”
3. Heard and perused the material available on record.
4. The petitioner filed the complaint in the above STC against the 1st respondent for the offence punishable under Section 138 of the Negotiable Instruments Act. From the material on record, it is evident that the petitioner was present before the Court on 4.11.2015. But at about 5 P.M., no representation was made on behalf of the complainant. Further, no process was paid. Therefore, the trial Court dismissed the complaint.
5. It is pertinent to note that Section 204(4) of Cr.P.C. enunciates that when by any law for the time being in force any process-fees or other fees are payable, no process shall be issued until the fees are paid and, if such fees are not paid within a reasonable time, the Magistrate may dismiss the complaint.
6. The Courts have power to dismiss the complaint, if the process was not paid. But the said provision clearly says that if the process is not paid within a reasonable time, the Magistrate may dismiss the complaint. It is nowhere stated in the order under revision that the

petitioner has not paid the said process within a reasonable time.

7. Considering the above facts and circumstances of the case, this Court is inclined to pass the following order:

“The order under revision is set aside. Consequently, STC No.58 of 2015 on the file of VI Additional Junior Civil Judge-cum-Special Magistrate, Tirupathi, is restored. The learned Magistrate is directed to proceed with the matter in accordance with law.”

8. Accordingly, the Criminal Revision Case is allowed. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE RAJA ELANGO

Dated: 22nd January, 2016
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THE HONOURABLE SRI JUSTICE RAJA ELANGO

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