

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL REVISION CASE No.3112 of 2016

ORDER:

This criminal revision case is filed under Sections 397 and 401 Cr.P.C., challenging the docket order dated 29.11.2016 passed by the Court of Special Judge for Economic Offences-cum-VIII Additional Metropolitan Sessions Judge, Hyderabad in Criminal Appeal No.994 of 2015.

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

3. A perusal of the record reveals that the petitioner No.2 is representing petitioner No.1-M/s.Vishweswara Infrastructure Pvt. Ltd. The petitioners faced trial in C.C. No.881 of 2013 on the file of the Court of XXIII Special Magistrate, Erra Manzil, Hyderabad, for the offence under Section 138 of the Negotiable Instruments Act. The petitioners were found guilty, convicted and sentenced for the offence under Section 138 of N.I. Act by the trial court. Feeling aggrieved by the conviction and sentence, the petitioners preferred Criminal Appeal No.994 of 2015 on the file of the Court of Special Judge for Economic Offences-cum-VIII Additional Metropolitan Sessions Judge, Hyderabad.

4. On 29.11.2016, the petitioners filed petition under Section 317 Cr.P.C., requesting to dispense with personal attendance of petitioner No.2, who is representing petitioner No.1. The appellate court, while dismissing the petition under Section 317 Cr.P.C., issued non-bailable warrant against petitioner No.2. Aggrieved by the said order, the present criminal revision case is filed.

4. The learned counsel for the petitioners, in support of his case, has drawn the attention of this Court to Paragraph No.13 of the decision of this court in *Sudarshan Chemical Industries v State of Andhra Pradesh*¹, which reads as under:

13. For all the above, I am of the confirmed opinion that the practice that is being followed in insisting the presence of the accused/appellant during the pendency of the appeal has neither sanctity of law nor is a reasonable procedure. Accordingly, the order of the I Addl. District & Sessions Judge, Eluru in CrI.M.P. Nos.4613 and 4614/97 in CrI.A. Nos.57/97 and 58/97, dated 10.9.1997 pending on his file are quashed and he is directed to dispense with the presence of the appellant/accused in the above appeals unless otherwise the Court is of opinion that their presence is needed at any stage of the appeal for their effective disposal.

5. The facts of the decision cited above and the facts of the case on hand are akin. Having regard to the facts and circumstances of the case and also the decision cited supra, the docket order dated 29.11.2016 in Criminal Appeal No.994 of 2015 on the file of the Court of the Special Judge

¹ 1998(1) ALD Cri. 45

for Economic Offences–cum–VIII Additional Metropolitan Sessions Judge, Hyderabad is hereby set aside. However, the petitioners are directed to co-operate with the appellate court in disposal of the appeal.

6. With the above directions, the appeal is allowed. Miscellaneous petitions if any pending in the criminal revision case shall stand closed.

T.SUNIL CHOWDARY, J

December 07, 2016.

NOTE:

Dispatch order copy by 12.12.2016.

(By order)

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