

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL APPEAL No.657 OF 2016

JUDGMENT:

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This Criminal Appeal is preferred by the appellant challenging the docket order, dated 29.09.2015, passed in C.C.No.165 of 2015 by the Court of the

III Additional Judicial Magistrate of First Class, at Khammam, whereby the learned Judge dismissed the complaint as neither the complainant nor his counsel present and also as process is not paid.

Heard and perused the material available on record.

Learned counsel for the appellant submits that the absence of the complainant/appellant or his counsel is neither wilful nor wanton and due to his ill-health, the appellant could not present before the Court. He further submits that the Court below erred in dismissing the complaint in default for non-payment of process in time. He further submits that if the complaint is not restored to its file, it would cause serious injustice to the complainant and as such, he prays this Court to set aside the docket order and to direct the Court below to restore the complaint and proceed in accordance with law.

Considering the facts and circumstances of the case, the Court below is directed to restore the complaint filed under Section 200 CrPC., on its file, and complainant is directed to pay the process immediately on restoration and on such payment, the Court below is directed to pass appropriate orders in accordance with law after issuance of notice to the parties concerned.

The Criminal Appeal is accordingly disposed of. Miscellaneous applications, if any pending in this appeal, shall stand dismissed.

JUSTICE RAJA ELANGO

28.07.2016

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