

HON'BLE SRI JUSTICE SURESH KUMAR KAIT

CrI.A. Nos. 579, 580 and 581 of 2016

COMMON JUDGMENT:-

Inasmuch as the question of fact and law and the parties in these Criminal Appeals are one and the same, these matters are taken up together for disposal by this Common Judgment.

These appeals are preferred seeking to set aside the separate orders dated 02.04.2015 made in C.C.Nos.1, 2 and 3 of 2015 by the Special Magistrate-V at Hyderabad whereby the complaints filed by the appellant-complainant, were dismissed.

The aforesaid cases were registered against the 2nd respondent-accused on the complaints made by the appellant for the offence punishable under Section 138 of Negotiable Instruments Act.

The impugned orders disclose that the appellant gave his evidence in chief by way of filing an affidavit on 05.09.2012 and cross-examination was deferred. Thereafter, the case was transferred from the previous Court. On 22.01.2015, the appellant-complainant was absent and there was no representation, as such, the case was adjourned to 05.02.2015. On that day also the appellant was not present. Even on 23.03.2015, the complainant –PW1 was absent.

The learned counsel for the 2nd respondent – accused submits that due to non-appearance of the appellant, the case was kept pending and the 2nd respondent used to appear before the trial Court. He further submits that there are no grounds to interfere with the impugned orders and the present appeals may be dismissed.

It is an admitted fact that the total cheque amount in all the three cases is Rs.3.50 crores. The petitioner was unwell during that period, therefore, his representative could appear, however, the trial Court dismissed C.C.Nos.1 to 3 of 2015.

Keeping in view the facts and circumstances of the case, I hereby set aside the orders dated 02.04.2015 made in C.C.Nos.1, 2 and 3 of 2015 passed by the Special Magistrate-V at Hyderabad, however subject to the condition that the appellant shall deposit costs of Rs.10,000/- (Rupee Ten Thousand Only) in each case with Bar Association, Criminal Courts, Nampally, Hyderabad.

Accordingly, these Criminal Appeals are allowed.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

SURESH KUMAR KAIT, J

21.12.2016

bcj