

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.1124 of 2016

ORDER:

The present Criminal Revision Case is filed under Sections 397 and 401 of Cr.P.C. assailing the order dated 17.03.2016 passed in CrI.A.No.162 of 2015 on the file of II Additional Sessions Judge, Kurnool at Adoni, wherein and whereunder the appeal was dismissed for non-prosecution and consequently ordered issuance of Non Bailable Warrant against the accused to be kept in jail to undergo the sentence of imprisonment.

The petitioner herein was tried for offences punishable under Sections 337 and 304-A of IPC in C.C.No.722 of 2011. Vide judgment dated 25.06.2015, the accused was convicted for the above mentioned offences and was sentenced to undergo simple imprisonment for a period of six (06) months for an offence punishable under Section 337 of IPC and one year for an offence punishable under Section 304-A of IPC. Both the sentences were ordered to be run concurrently. Aggrieved by the same, CrI.A.No.162 of 2015 was filed.

It appears that on 17.03.2016, the appellant was called absent and the advocates on record were also not present. An application was given to the Bench Clerk seeking condonation of the absence of appellant. But the same was not accepted and the Criminal Appeal was dismissed. Challenging the same, the present criminal revision is filed.

It is to be observed that the Criminal Appeal filed against conviction came to be dismissed for default, without going into the

merits of the case. If suitable assistance to dispose of the appeal was not available, the appellate Court ought to have taken the help of a lawyer from the panel of Legal Aid Services and dispose of the appeal on merits, instead of dismissing it for default. The Apex Court on more than one occasions directed the Court to dispose of the appeal on merits after perusing the records.

Hence, the order under challenge is set aside and the matter is remanded back for fresh consideration on merits.

The appellate Court shall dispose of the said Criminal Appeal on merits after hearing both the parties. The accused shall appear before the concerned Court on or before 25.04.2016 and make an application for recall of the warrant issued against him, in which event, the same shall be recalled on certain terms and conditions.

With the above direction, the Criminal Revision Case is disposed of.

Consequently, the miscellaneous petitions, if any, pending shall stand closed.

C.PRAVEEN KUMAR,J

11.04.2016
vnb