

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO
Criminal Revision Case No.3308 OF 2016

ORDER:

Impugning the dismissal order in CrI.M.P.No.1497 of 2016 dated 07.11.2016 passed by the learned Sessions Judge in entertaining the unnumbered appeal with delay of 107 days against the acquittal judgment of the learned Magistrate in C.C.No.498 of 2014 for the offences punishable u/sec.193,196 and 466 read with 34 IPC, the revision is maintained.

2. Heard the learned counsel for the revision petitioner vis-à-vis learned counsel for the revision respondents 1 and 2 and also the learned Public Prosecutor representing revision respondents No.3-State and perused the material including the impugned order of the lower Court.

3. Undisputedly the approach required is pragmatic and liberal and Court shall not ignore the factum that no party willfully withholds to file any application or appeal or revision within the prescribed time but for in some circumstances, then the Court to consider with that approach where those are outcome of willful negligence or otherwise in considering the same as per the settled law.

4. Once it is the explanation that he was suffering from ill-health and acquittal judgment is not communicated and he came to know only later and filed the appeal, the observation of the learned Sessions Judge that the revision petitioner appeared in O.S.No.221 of 2011 as per the docket proceedings from 02.05.2016 onwards is in fact outcome of misconception from the fact that he already obtained certified copy of the acquittal judgment by filing copy application on 07.04.2016. Once such is the case, the subsequent attending to the Court is of no

relevance to consider as if a ground in dismissing the appeal condonation application. No doubt, there is some lack of due diligence on the part of the petitioner in filing the appeal within time that can be compensated.

5. In the result, the order of the lower Court dated 07.11.2016 in Crl.M.P.No.1497 of 2016 is set aside and the revision is allowed condoning the delay of 107 days subject to costs of Rs.2,000/-, the same is since paid, lower Court is directed to number the appeal if otherwise by virtue of this order.

6. Consequently, the pending miscellaneous petitions, in this revision, shall stand closed.

Date:03.02.2017
Vvr.



Dr. B.SIVA SANKARA RAO J,