

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

CRIMINAL APPEAL No.89 OF 2007

JUDGMENT:

Heard learned counsel for the appellant-complainant. No representation for the respondent-accused. Perused the record.

2. This appeal is filed to set aside the order, dated 13.11.2006, made in C.F.R.No.1605 of 2006 in STC NO. nil of 2006 on the file of the Judl. Magistrate of I Class, Guntakal.

3. As per the material placed on record, the appellant was absent on that day and filed an application to condone his absence under Section 256 (2) Cr.P.C. stating that his wife was seriously ill and so, he took her to Bangalore for treatment. Therefore, he could not attend the Court. Without considering the said request, the C.F.R. was closed stating that the petitioner sought several adjournments.

4. The point for determination is whether the absence of the appellant on 13.11.2006 was due to justifiable reasons?

5. When the appellant had filed application stating that his wife was seriously ill and he had been to Bangalore for her treatment, the trial Court out to have taken the same into consideration. Further the complaint was not taken on file. No hardship or prejudice would have been caused to the respondent-accused, even the request of the appellant was considered. Therefore, the trial Court erred in closing the proceedings in C.F.R.No.1605 of 2006 on 13.11.2006.

6. Accordingly, the Criminal Appeal is allowed and the order, dated 13.11.2006 in C.F.R.No.1605 of 2006 passed by the Judl. Magistrate of I Class, Guntakal, is set aside and the C.F.R.No.1605 of 2006 is restored to file. Miscellaneous petitions, if any pending in this appeal shall stand closed.

DR.SHAMEEM AKTHER, J

DATED: 23-11-2017

Hsd

