

THE HON'BLE DR. JUSTICE B.SIVA SANKARA RAO

TRANSFER CRIMINAL PETITION No.196 OF 2017

ORDER:

Heard learned counsel for the petitioner, no other than appellant in Criminal Appeal No.131 of 2016, pending on the file of the V Additional District and Sessions Judge, Kothagudem, against the trial court (JFCM, Bhadrachalam) order in D.V.C. No.8/2010, dated 26.07.2016 and also heard the learned public prosecutor representing the 2nd respondent – State, before ordering notice to the 1st respondent – the appeal respondent/DVC Petitioner and perused the grounds urged.

2. As held by the three Bench judgment of the Hon'ble Apex Court in ***Bani Singh Vs. State of U.P.***¹, for disposal of the appeal, presence of the appellant is not required and representation by advocate is enough and even if there is no representation, court need not bound to keep the matter adjourned but for to decide on merits.

3. Having regard to the above, any N.B.W. pending against the petitioner is directed to be recalled by the lower court without insisting the presence of the appellant. The lower court can dispose of the appeal on merits by giving reasonable opportunity.

¹ AIR 1996 SC 2439

4. Accordingly and with the above direction, this transfer criminal petition is disposed of, for no grounds to transfer the case. Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence.

DR.B.SIVA SANKARA RAO, J

14.09.2017

SS

