

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Criminal Appeal No.635 of 2017

ORDER:

Perused the office note and heard arguments of Sri K.V.Prabhakar, learned counsel appearing for Mr. M.Balanaga Srinivas, learned counsel for appellant.

2) In POCSO S.C.No.103 of 2015 on the file of I Additional Sessions Judge, Rajahmundry the sole accused was convicted for the charge under Section 10 of POSCO Act and sentenced to undergo imprisonment for 5 years and to pay fine of Rs.1,000/- as per the judgment dated 21.12.2016. While the accused was in custody he sought for legal aid and the High Court Legal Services Committee appointed Sri A.Nagendra Rao, advocate as legal aid counsel to appear for appellant and accordingly he filed CrI.A.No.94 of 2017 on the behalf of accused. This Court by judgment dated 20.03.2017 dismissed the appeal by confirming the conviction and sentence passed by the trial Court. While so, it appears on the request of relations of the accused, another Criminal Appeal i.e. CrI.A.No.635 of 2017 was filed by Mr. M.Balanaga Srinivas and in that appeal CrI.A.M.P.No.1300 of 2017 was filed seeking suspension of the sentence and this Court while admitting the appeal granted suspension of sentence and bail on 19.06.2017.

3) Thereafter, the Principal District Judge, East Godavari on receiving both the orders i.e. judgment in CrI.A.No.94 of 2017 as well as in CrI.A.M.P.No.1300 of 2017 in CrI.A.No.635 of 2017 through his letter dated 01.07.2017 brought about the factum of two appeals being filed against the judgment of same Sessions Case.

4) Thus, office of the Registry put up the present note. This Court posted the matter for hearing the submission of learned counsel for appellant as to how the second appeal could be filed when the earlier appeal filed by the same accused was already dismissed.

5) Sri Prabhakar Rao, learned counsel for appellant would submit that the earlier appeal was filed by the legal aid counsel and the said fact was not known to the relations of the accused and at their instance the second appeal was filed by Sri M.Balanaga Srinivas and sought for suspension and sentence since the accused was in jail. He would submit that learned counsel absolutely did not know about the dismissal of earlier appeal. Learned counsel would further submit that he is ready to withdraw the present appeal.

Permission is accorded to withdraw Crl.A.No.635 of 2017.

6) Criminal Appeal is accordingly dismissed as withdrawn.

7) Consequently, the order in Crl.A.M.P.No.1300 of 2017 dated 19.06.2017 is recalled as the Crl.A.No.94 of 2017 was already dismissed.

As a consequence, miscellaneous petitions pending, if any, shall stand closed.

U. DURGA PRASAD RAO, J

Date: 18.07.2017

Note: Registry is directed to scrutinize the New Filing carefully to obviate the multiple filing of the appeals in respect of same case hereafter.

(b/o)
Murthy