

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL REVISION CASE No.1632 OF 2009

JUDGMENT:

The present Criminal Revision Case is filed by the appellant under Sections 397 and 401 of the Code of Criminal Procedure, 1973 (for short 'Code'), questioning the order, dated 08.07.2009, in P.R.C. No.23 of 2009 on the file of the Additional Judicial Magistrate of First Class, Gudivada, Krishna District.

2. The order under challenge reflects that when the complainant was absent on 08.07.2009 in the aforesaid P.R.C. and there was no representation for her during call work and also later, and as batta was not paid, the learned Magistrate dismissed the complaint under Section 204 (4) of the Code. Now, the request is made to set aside the same and to afford an opportunity to pay the process and to allow her to participate in the aforesaid PRC proceedings further.

3. When the present Criminal R.C. came up for hearing for admission on 22.02.2010, this Court ordered notice before admission. Again on 08.04.2010, fresh notice to respondent Nos.2 to 5 was ordered. Later, when the matter was taken up for hearing on 20.11.2017, at the request of learned counsel for the revision petitioner, it was adjourned to 21.11.2017, on which day again adjourned to 28.11.2017. On 28.11.2017, in fact, there was no

representation for the revision petitioner, however, learned counsel for respondent No.5 was present and heard. Respondent Nos.2 to 4 are represented by Sri K. Suresh Reddy, learned counsel.

4. It is clear from the order itself that the learned Magistrate dismissed the complaint under Section 204 (4) of the Code. When on one occasion, the complainant was not present, the learned Magistrate ought to have given yet another date by postponing the case, more particularly, when PRC is registered and ought to have made similar order if things that occurred on 08.07.2009 were repeated.

5. Now, the question is, whether the present request can be acceded to?

6. When the sworn statements were recorded and PRC was registered, it indicates that *prima facie* material has been occurring, and in such an event, the order under challenge is liable to be set aside, directing the complainant herein to strictly follow the procedure of payment of process and making herself present in the learned Magistrate's Court or in case in her absence, to arrange for representation on her behalf when the matter is called. In case the present order is allowed to be remained on record, certainly, grave injustice would be caused to the petitioner as the offences alleged are punishable under Sections 342, 323 and 354 IPC and also under

Section 2 (d) and (3) read with 30 of Human Rights Act against respondent Nos.2 to 5.

7. The present Criminal Revision Case is, accordingly allowed.

As a sequel thereto, miscellaneous petitions, if any, pending in the present revision, stand closed.

A. SHANKAR NARAYANA, J

November 29, 2017.

Mgr

