

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

**CRIMINAL REVISION CASE No.976 OF 2017**

**ORDER:**

Heard before admission and before notice to 2<sup>nd</sup> respondent.

2. A perusal of the impugned order of the lower court shows, it is for the appellant called absent, the court could not find any reasons to extend the interim stay of suspension of the order of trial magistrate in D.V.C.No.27 of 2013, dated 02.09.2016, pending the D.V.C. Appeal No.614 of 2016. In fact, in CrI.M.P.No.680 of 2016, interim order was granted on 26.11.2016 till 02.12.2016 and extended from 27.02.2017 to 13.03.2017 and on that day, the interim stay not extended as there is no representation of the appellant.

3. In fact instead of vacating the stay by non-extension, if at all the lower appellate court wants to hear and dispose of the appeal, it is not powerless from the expression of the three judge bench of the Apex Court in ***Bani Singh and Others Vs. State of U.P.***<sup>1</sup>, that even the appellant failed to attend on the date of hearing the appeal, the appellate court can decide the appeal on merits.

4. Having regard to the above, by following the expression of the Apex Court referred supra, the lower appellate court

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<sup>1</sup> AIR 1996 SC 2439

can decide the appeal, without even presence of appellant or their counsel on merits, in directing to decide as early as possible, with cooperation of both sides or even for any of their absence on merits and also by virtue of this order and till then, the interim suspension of the order of trial court is extended.

5. With above observations and directions, this Criminal Revision case is disposed of. Miscellaneous petitions pending, if any, in this case shall stand closed.

**07.04.2017**  
**SS**

**DR.B.SIVA SANKARA RAO,J**

