

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL REVISION CASE No.261 of 2017

ORDER :

Aggrieved by the dismissal order dated 11.01.2017 in CrI.M.P.No.271 of 2016 in S.T.C.No.43 of 2008 passed by the Judicial Magistrate of I Class, Punganur, this Criminal Revision is filed by the petitioner/ accused.

Heard the learned counsel for the petitioner. Proof of service of respondent No.2 filed, but there is no appearance on his behalf. Received the remarks of the Presiding Officer. Perused the material on record.

No doubt, a perusal of the record shows that the accused filed his written arguments way back on 08.07.2014 reporting no defence and since then, the then Presiding Officer either was in training or later suspended and successor in-charge Officer could not dispose of the matter, which is coming under the caption 'for arguments' and at that stage, the accused filed an application covered by the impugned order, seeking to come to witness box as a defence witness under Section 315 Cr.P.C. that was ended in dismissal by mentioning the above facts. There are laches on

the part of the trial Court also in not disposing of, once the matter is pending for three years for disposal at the end of the trial Court, at that stage when accused wanted to adduce his defense evidence, for there is no waiver though earlier reported no defence evidence.

Having regard to the above, the lower Court should have been given an opportunity to adduce defence evidence, thereby, the impugned dismissal order is set aside and CrI.M.P.No.271 of 2016 is allowed permitting defence evidence of the accused to come to witness box, subject to payment of costs of Rs.5,000/- (Rupees Five thousand only) to be deposited before the Superintendent of the trial Court, who in turn send the same to any orphanage on proper acknowledgement.

Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

Date:10-03-2017
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