

**THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA**

**Criminal Revision Case No.2645 of 2017**

**ORDER:**

Heard Sri Sasibhushan Rao, for Sri Veeranna Bhukya, learned counsel for the revision petitioners/accused Nos.1 and 2, and the learned Additional Public Prosecutor for the State of Telangana.

2. Questioning the order of dismissal of Criminal Appeal No.62 of 2015, dated 4.7.2017, by the VI-Additional District & Sessions Judge, Mahabubabad, erstwhile Warangal District, the present Criminal Revision Case is filed by the accused, who are the appellants herein, who suffered conviction under Section 248 (2) of Criminal Procedure Code, 1973 (for short, 'Cr.P.C.') and were sentenced to undergo rigorous imprisonment for one year and to pay fine of Rs.1,000/- for the charge punishable under Section 498-A of Indian Penal Code (for short, 'I.P.C.') and also similar sentence of imprisonment and fine concerning the charge under Section 4 of Dowry Prohibition Act, 1961.

3. When they preferred the aforesaid Criminal Appeal, the learned Appellate Judge passed the following judgment:

“Accused absent since 10 times since 18/04/2006 i.e., more than one year. No representation made. Counsel absent. Hence dismissed. Transmit to Lower Court.”

4. The learned counsel for the revision petitioners /accused Nos.1 and 2, while submitting that the appellate Court in the absence

of appearance of the appellants ought to go through the record and decide the matter on merits. To fortify his submission, he places reliance in **Parasuram Patel and Another v. State of Orissa**<sup>1</sup>. The order is very short, it is thus:

“Special Leave granted. In the present case, the High Court dismissed the criminal appeal of the appellants only on the ground that there was default in appearance of the appellants and their counsel. It is now well settled that no criminal appeal can be dismissed on the ground of default in appearance. The Court has to go through the record of the case even in absence of the appellants or their counsel and decide the matter on merit. Inasmuch as the High Court dismissed the appeal without going into the merit of the matter, the impugned order dated 7.4.1992 is hereby set aside and the matter is remanded to the High Court for decision on merit. In the circumstances of the case, the High Court should dispose of the matter within two months of the receipt of this order. The appeal is allowed accordingly.”

5. The learned counsel, therefore, seeks to set aside the said judgment and remit the matter by restoring the Criminal Appeal.

6. The learned Additional Public Prosecutor for the State of Telangana, of course, no quarrel with the settled proposition in **Parasuram Patel** (1 supra) and he would readily agree with the submission made by the learned counsel for the revision petitioners. But, however, he would point out that the appellants were about for 10 times when the Criminal Appeal was called and there was no representation.

7. The order explicitly shows and reflects on the conduct of the revision petitioners. Perhaps, they were trying to avoid the disposal of Criminal Appeal by absenting themselves, lest, there

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<sup>1</sup> (1994) 4 SCC 664

would not have any occasion to absent, consistently for ten times as recorded by the lower Appellate Court.

8. The learned counsel for the revision petitioners would submit that the revision petitioners would cooperate with the appellate Court for early disposal of the Criminal Appeal.

9. Keeping in view, the ruling in **Parasuram Patel** (1 supra), without making any comment on the judgment under challenge herein, the said judgment is hereby set aside restoring the Criminal Appeal No.62 of 2015 to the file of VI-Additional District & Sessions Judge, Mahabubabad, directing to dispose of the Criminal Appeal on merits by affording a chance to the revision petitioners. The revision petitioners are also directed to cooperate and enable the Court to dispose of the Criminal Appeal within a period of two months from the date of receipt of a copy of the order.

10. Accordingly, the Criminal Revision Case is allowed to the extent indicated in the above.

As a sequel thereto, miscellaneous petitions, if any, pending in the Criminal Revision Case shall stand closed.

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A. SHANKAR NARAYANA

Dt.03.11.2017  
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