

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL REVISION CASE No.2759 of 2017

ORDER:

Heard Sri P. Kasi Nageswara Rao, learned counsel for the revision petitioner. He would submit that since the revision petitioner – *de facto* complainant was suffering with ill-health due to old age, he could not attend the Court on 06.03.2017, to which date the protest petition filed by him was posted, and, therefore, seeks to set aside the docket order dated 06.03.2017 passed by the XVII Additional Chief Metropolitan Magistrate, Hyderabad, dismissing the protest petition in S.R.No.5726 of 2016 in Crime No.220 of 2016 of P.S. Jubilee Hills. According to him, a chance be given to the revision petitioner to substantiate the contents mentioned in the protest petition.

The docket order, which is now challenged, would show that a direction was given earlier to the revision petitioner to appear to adduce evidence in support of his protest petition, but, despite the same, he did not appear and, therefore, the protest petition was dismissed for default.

Pursuant to issuance of notice to respondent No.2, proof of service was filed indicating that on line tracking of RPAD was delivered on 10.11.2017. Even postal receipt is also filed in token of sending notice to respondent No.2 by the revision petitioner. However, no appearance is entered on behalf of respondent No.2.

Perused the photostat copy of the medical certificate, dated 25.03.2017, issued by Anantalakshmi Kidney and Multi Speciality Hospital, which was, of course, admittedly obtained subsequent to

passing of the order under challenge. The said certificate shows that the revision petitioner was suffering with severe Epinzxis Secondary to Accellardid Hypertension & Transient Isnansi attack and was under treatment from 01.03.2017 to 25.03.2017. Keeping in view the said certificate issued by the Medical Officer, non-appearance of the revision petitioner on 06.03.2017 before the court below can be exonerated.

Accordingly, the present Criminal Revision Case is allowed setting aside the order under challenge and restoring SR.No.5726 of 2016 in Crime No.220 of 2016 of P.S. Jubilee Hills, to the file of XVII Additional Chief Metropolitan Magistrate, Hyderabad, with a direction to the petitioner to appear before the Court below on 28.12.2017.

Miscellaneous Petitions, if any, pending in the present revision case, stand closed.

12.12.2017

v v

A. SHANKAR NARAYANA, J