

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL REVISION CASE No.2920 OF 2017

JUDGMENT:

The present Criminal Revision Case is preferred under Sections 397 and 401 of the Code of Criminal Procedure, 1973, requesting to set aside the order dated 25.09.2017 in Criminal M.P. No.5178 of 2016 in C.C. No.1360 of 2015 passed by the learned II Additional Judicial Magistrate of First Class, Nuzvid.

2. Criminal M.P. No.5178 of 2016 was filed under Section 223 of the Code of Criminal Procedure, 1973 (for short 'Code') seeking to club C.C. No.1504 of 2015 with C.C. No.1360 of 2015.

3. Heard Sri K. Sai Mohan Rao, learned counsel for the revision petitioner, and the learned Additional Public Prosecutor for the State of Andhra Pradesh, and perused the material on record.

4. The submission of the learned counsel for the revision petitioner is that the cause in both the cases relate to one and the same cheque and the former C.C. is filed for the offence punishable under Section 138 of Negotiable Instruments Act, 1881 (for short 'NI Act'), whereas, the latter C.C. relates to the offence punishable under Section 420 of Indian Penal Code, 1860 (for short 'IPC'), and, therefore to avoid conflict of decisions, both the cases can be clubbed together and disposed of. He would thus, relied on Section 223 of the

Code. It is according to him that the learned Magistrate was not right in dismissing the application based on the decision in **V. Kutumba Rao v. M. Chandrasekhar Rao**¹.

5. The learned Additional Public Prosecutor for the State of Andhra Pradesh would submit that the procedure resorted to for disposal of the matters relating to the offences punishable under Section 420 of IPC is 'warrant procedure', whereas the procedure resorted to so far as disposal of the matters relate to the offence punishable under Section 138 of NI Act is 'summary trial procedure', and, therefore, it is not desirable to club both the Calendar Cases and dispose of the same by a common judgment.

6. When the Code mandates a particular procedure to be adopted and since for the trial of offence punishable under Section 420 of IPC it provides 'warrant procedure' and for the trial of offence punishable under Section 138 of NI Act it provides 'summary trial procedure,' the request to try both the calendar cases jointly cannot be acceded to. This apart both the cases have been pending before one and the same learned Magistrate.

7. Therefore, the learned Magistrate is directed to take up both the calendar cases simultaneously for trial and dispose of the same separately to avoid coming on different dates and also to avoid

¹ 2003 (2) ALD (Crl.) 830 (AP)

conflicting judgments being rendered and dispose of in accordance with law.

8. With the above direction, the Criminal Revision Case is dismissed, at the admission stage itself.

As a sequel thereto, Miscellaneous Applications, if any, pending in the present revision stand dismissed.

November 17, 2017.

PV

A. SHANKAR NARAYANA, J

