

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL REVISION CASE No.96 of 2018

ORDER:

Heard Sri G.L.Nageswara Rao, learned counsel for petitioner and learned Additional Public Prosecutor and this Court found no necessity to order notice to respondents, disposed of the Criminal Revision Case, at the admission stage.

2. The Criminal Revision Case is filed by the petitioner aggrieved by the docket Order dated 6.10.2017 in Crl.M.P.No. 537 of 2017 in un-numbered Criminal Appeal of 2017 on the file of learned Metropolitan Sessions Judge, Vijayawada, whereunder learned Judge dismissed the petition for not paying batta to R2.

3. Learned counsel for petitioner would submit that the Criminal Appeal was filed aggrieved by the acquittal recorded by the First Metropolitan Magistrate, Vijayawada in CC No. 88 of 2014 and as there was some delay in filing the appeal, Crl.M.P.No. 537 of 2017 was filed to condone the delay in filing the appeal, wherein the appellate Court directed notice to respondents 1 to 3 therein. On 6.10.2017 the appellate Court found that the appearance was made by the advocate for R1; notice to R3 not given and batta of R2 not paid and while directing the notice to R3 and counter of R1, dismissed the petition as against R2 for non-payment of batta. Learned counsel would submit that in fact the notice sent to R2 was not returned and the Court instead of either posting the matter for awaiting notice on R2 or ordering fresh notice to R2

dismissed the petition so far as R2 was concerned. Learned counsel would pray that unless the impugned order is set aside and an opportunity is given, the delay condoning petition and thereby appeal would become infructuous.

4. Considering the said submission, the Criminal Revision Case is allowed and the impugned order dated 6.10.2017 is set aside and the petitioner/appellant is directed to pay batta to R2 in CrI.M.P.No. 537 of 2017 within two weeks from the date of this order, failing which, this order shall be deemed cancelled.

Date: 23.01.2018
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U.DURGA PRASAD RAO, J

