

SMT JUSTICE T.RAJANI

CRIMINAL APPEAL NO.315 OF 2018

ORDER:

This Criminal Appeal is preferred against the order dated 22.04.2016 in C.C.No.35 of 2016 on the file of the XXIII Special Magistrate, Hyderabad at Erramanzil and restore the complaint on its file for disposal on merits.

Heard the learned counsel for the appellant, learned Public Prosecutor for the State and perused the record.

Since the complaint was dismissed under Section 256 of the Code of Criminal Procedure for non-appearance of the complainant, it is considered that notice to the second respondent is not required.

A perusal of the impugned order shows that the Court below dismissed the complaint considering the fact that the complainant was called absent from 10.30 am up to 11.40 am. However, this Court opines that it would be better for any case to be decided on merits. Hence, another opportunity needs to be given to the appellant to get the case decided on merits.

Considering the above, the Criminal Appeal is allowed and the order 22.04.2016 in C.C.No.35 of 2016 on the file of the XXIII Special Magistrate, Hyderabad at Erramanzil, is hereby set aside. The appellant shall comply with the order of the Court below that would be made immediately after receiving the records. Miscellaneous petitions, if any, pending shall stand closed.

(T.RAJANI, J)

2nd February 2018
RRB