

**HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO**

**CRIMINAL PETITION No.4627 of 2014**

**ORDER:**

The accused maintained the petition against the impugned order of the learned V Additional Chief Metropolitan Magistrate-cum-Principal Magistrate of Juvenile Justice Board, Hyderabad, in CC.No.335 of 2013, which is a case for the offence under Section 138 of the Negotiable Instruments Act that was for the non-diligence for cross examination and for no representation on 11.11.2013 dismissed. On the same day subsequent to the dismissal order supra, the learned Magistrate from the complainant present at 03.30 PM and represented of he was present during call work and could not represent and it is due to oversight, restored the complaint dismissed for default to file and directed the learned counsel for the complainant to issue notice to the accused by posting restoring status quo anti for cross examination of PW.1 to 19.11.2013. Same is the impugment in the present criminal petition.

Apart from the bar under Section 362 Cr.P.C., there is no inherent power to the trial Court under Section 482 Cr.P.C. for the complaint once dismissed to restore. Even the principle of ***actus curiae neminem gravabit*** has no application in the said criminal proceeding. Once dismissed for default the remedies left open either to maintain an appeal

or revision as the case may be before the superior Courts concerned.

Having regard to the above, this Criminal Petition is allowed by setting aside the restoration order of the learned Magistrate dated 11.11.2013 in CC.No.335 of 2013.

Miscellaneous petitions, if any, shall stand closed.

---

**Dr. B. SIVA SANKARA RAO, J**

Date: 26.09.2018  
ska

