

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

Criminal Appeal No.341 of 2004

Between:

G. Vijaya Raghavan.

.... Appellant/Complainant

AND

Y.Venkata Sesha Reddy

and another.

.... Respondents

DATE OF JUDGMENT PRONOUNCED: 14.09.2018

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

1. Whether Reporters of Local Newspapers

may be allowed to see the judgment?

Yes / No

2. Whether the copies of judgment may be

marked to Law Reporters / Journals?

Yes / No

3. Whether His Lordship wish to

see the fair copy of the Judgment?

Yes / No

U. DURGA PRASAD RAO, J

*** THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO**

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.... Respondents

! Counsel for Appellant : Sri A. Hari Prasad Reddy, for

Sri C. Sharan Reddy

^ Counsel for Respondent No.1 : Sri G. Venkata Reddy

^ Counsel for Respondent No.2 : Public Prosecutor for State (AP)

< Gist:

> Head Note:

? Cases referred:

1) MANU/SC/0170/2001 = AIR 2001 SC 1315

HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

Criminal Appeal No.341 of 2004

JUDGMENT:

Aggrieved by the judgment dated 19.11.2003 in Criminal Appeal No.164/2001 passed by the learned III Additional Sessions Judge, Kurnool at Nandyal, allowing the appeal and thereby setting aside the conviction and sentence passed in C.C.No.121/1997 by the Judicial Magistrate of First Class, Nandyal, the complainant filed the instant criminal appeal.

2) The parties in this appeal are referred as they were arrayed before the Trial Court.

3) The factual matrix of the case is thus:

a) The complaint was filed under Sections 138 and 142 of Negotiable Instruments Act, 1881 (for short "N.I. Act") with the allegations that complainant—G.Vijaya Raghavan, R/o.Nandyal, was the Proprietor of Nandyal Aqua Feeds Private Limited and the accused, who is the Proprietor of Sai Aqua Feeds 'N' Needs, Nellore and the accused was appointed as dealer of complainant at Nellore. During the course of business transaction, the accused was indebted to a tune of Rs.7,20,160-89ps to the complainant and to discharge the said debt, the accused issued three post dated cheques bearing Nos.123962 dt.13.03.1997 for Rs.2,00,000/-; 123963 dt.19.04.1997 for Rs.3,50,000/- and 123964 dt.22.04.1997 for Rs.1,70,160/- in favour of complainant

drawn on Pinakini Grameena Bank, Srinivasa Agraharam, Nellore. The first cheque for Rs.2,00,000/- on presentation by the complainant with his banker—Andhra Bank, Nandyal, was sent for collection and returned unpaid on 24.03.1997 and the other two cheques which were also presented in the same bank were returned unpaid on 23.04.1997 due to “insufficient funds” in the account of the accused. Subsequently, the complainant sent two separate statutory registered notices under Section 138(b) of N.I Act to the accused on 12.04.1997 and 03.05.1997. The first notice was served on accused on 21.04.1997 and the second notice on 08.05.1997. The accused did not pay the amount but gave reply to the notices denying the notice allegations regarding the existence of legally enforceable debt and his issuing the subject cheques in that connection. His contention in his reply notices vide Exs.P.16 and P.17 was that the accused issued 5 blank signed cheques to Vijaya Raghavan, the complainant in the month of July, 1995 when the accused started his business afresh after a fire accident in his Godown was occurred and subsequently the complainant stopped production of Aqua products from June, 1996 and due to non-supply of the material, the accused suffered a lot and because of that, his outstanding dues were unpaid and the accused accosted the complainant and aggrieved by the same, the complainant issued the notices with all false allegations. Thus the accused repudiated his liability.

Hence the complainant filed C.C.No.127/1997 against bouncing of the three cheques.

b) The Trial Court having regard to Ex.P.2—ledger extract and Ex.P.16 & P.17—reply notices issued by the accused, opined that the complainant established existence of legally enforceable debt in discharge of which Exs.P.3 to P.5—cheques were issued by the accused, which were bounced back, convicted the accused for the offence under Section 138 of N.I. Act and sentenced him to suffer R.I for one(1) year and pay a fine of Rs.5,000/- and in default to suffer RI for two(2) months.

c) Aggrieved, the accused preferred CrI.A.No.164/2001 wherein the learned III Additional Sessions Judge, Kurnool, came to a different conclusion and held that Exs.P.10 and P.11—statutory notices were not issued in accordance with Section 138(b) of N.I Act and therefore, it cannot be said that the accused was liable for prosecution. It further held that the complainant failed to establish the existence of legally enforceable debt and therefore, complaint was not maintainable. The lower Appellate Court ultimately allowed the appeal and acquitted the accused of the charge under Section 138 of N.I Act.

Hence the appeal by the complainant.

4) Heard arguments of Sri A. Hari Prasad Reddy, learned counsel representing Sri C. Sharan Reddy, learned counsel for appellant; Sri G. Venkata Reddy, learned counsel for 1st respondent and learned Addl. Public Prosecutor for the State (AP).

5) Following points arise for consideration in this appeal:

(i) *Whether the complainant presented Exs.P.4 and P.5—cheques before their due dates and thus violated Section 138(a) of N.I Act?*

(ii) *Whether complainant issued statutory notice under Section 138(b) of N.I Act within the time prescribed?*

(iii) *Whether a legally enforceable debt was in existence and if so, in discharge of the same the accused issued Exs.P3 to P5—cheques to the complainant?*

6) **POINT Nos.1 and 2:** For effective determination of points 1 and 2, the particulars of the cheques, their dates of return and issuance of notices are tabulated as below:

Sl. No.	Cheque No.	Date of cheque	Amount (Rs.)	Date of return by Pinakini Grameena Bank, Nellore	Date of receipt by Andhra Bank, Nandyal	Date of information to complainant	Date of legal notice
1	123962 (Ex.P.3)	13.03.1997	2,00,000	24.03.1997 (Ex.P.6)	29.03.1997 (Ex.P.9)	29.03.1997	12.04.1997 (Ex.P.10)
2	123963 (Ex.P.4)	19.04.1997	3,50,000	23.04.1997 (Ex.P.7)	--	--	03.05.1997 (Ex.P.11)
3	123964 (Ex.P.5)	22.04.1997	1,70,160	23.04.1997 (Ex.P.8)	--	--	03.05.1997 (Ex.P.11)

7) The first contention of accused is that though Exs.P.4 and P.5 are post-dated cheques, the complainant in violation of Section 138(a) of N.I Act presented them for collection before the due dates and hence the complaint is not maintainable.

Section 138(a) is a proviso to main Section and it reads thus:

“Section 138: Dishonour of cheque for insufficiency, etc., of funds in the account. — x x x x

Provided that nothing contained in this section shall apply unless—

(a) the cheque has been presented to the bank within a period of six months (three months as per RBI direction dt.04.11.2011) from the date on which it is drawn or within the period of its validity, whichever is earlier;

(b) x x x x ...

(c) x x x x ...”

So one of the conditions for attracting penal provision under Section 138(a) is that the cheque drawn and issued by the drawer has to be presented by the payee in the bank for realisation within a period of six(6) months from the date on which it was drawn or within the period of its validity, whichever is earlier. Exs.P.4 and P.5 were admittedly post-dated cheques. In Ex.P.11—notice, the complainant admitted that he presented those two cheques with his bank i.e, Andhra Bank, Nandyal, for collection from Pinakini Grameena Bank, Nellore, in advance on 17.04.1997 though the due dates of those two cheques were 19.04.1997 and 22.04.1997 respectively. Hence the question is whether the complainant violated proviso (a) to Section 138 of N.I Act.

a) The concept of post-dated cheques has been delineated by the Apex Court in ***Ashok Yeshwant Badave v. Surendra Madhavrao Nighojakar and others***¹, by referring various judgments of abroad and

¹ MANU/SC/0170/2001 = AIR 2001 SC 1315

local, from which one can understand that post-dated cheque was well-known even in common law and it was in effect a bill of exchange payable on demand with a post-date, upon which the demand was to be made. A banker was not justified in paying a post-dated cheque before its actual date. A post-dated cheque is not payable on the day it is issued but on the day of its due date. In the said decision in Para 13, it was observed thus:

“Para 13: *In Halsbury's Laws of England, 4th Edn. (Reissue) Vol. 3(1), at p. 143, procedure to be adopted by the bank in relation to post-dated cheque has been enumerated which reads thus:*

“Post-dated cheques are not invalid, but the banker should not pay such a cheque if presented before the date it bears. If, therefore, a cheque dated on a Sunday is presented on the previous business day, it should be returned with the answer ‘post-dated’. A post-dated cheque, however, if presented at or after its ostensible date, should be paid though the banker knows it to be post-dated, and even if it has been presented before the date and refused payment.”

It is also further observed that the purpose in issuing a post-dated cheque is to prevent the drawer's bank from paying the cheque to the payee or a holder before the date written on the cheque. In the above decision, considering the definitions of bill of exchange and cheque given under Sections 5 and 6 of N.I Act respectively, the Apex Court drew the distinction between them as follows:

“Para 17: *From a bare perusal of Sections 5 and 6 of the Act it would appear that a bill of exchange is a negotiable instrument in writing containing an instruction to a third party (Emphasis supplied) to pay a stated sum of money at a designated future date*

or on demand. On the other hand, a “cheque” is a bill of exchange drawn on a bank (Emphasis supplied) by the holder of an account payable on demand. Under Section 6 of the Act a “cheque” is also a bill of exchange but it is drawn on a banker and payable on demand. A bill of exchange even though drawn on a banker, if it is not payable on demand, it is not a cheque. A “post-dated cheque” is not payable till the date which is shown thereon arrives and will become cheque on the said date and prior to that date the same remains bill of exchange (Emphasis supplied).”

8) Therefore, from the above jurisprudence on the post-dated cheques, it is clear that a post-dated cheque operates as bill of exchange till the due date arrives and from the due date onwards the banker is liable to pay the amount contained in the cheque to the payee on demand, if the drawer maintains sufficient funds in his account. Now the question is what is the consequence if a post-dated cheque is presented even before due date as in the instant case. Law is not very much clear on this aspect. It only says that the banker is not supposed to clear the cheque till the arrival of due date. When Section 138(a) is meticulously studied, it only provides an outer limit for presentation of the cheque with the drawer’s bank denoting that cheque has to be presented to the bank within a period of six (6) months from the date on which it is drawn or within the period of its validity, whichever is earlier. According to this proviso, if a particular date is mentioned on a cheque whether it is a regular cheque or a post-dated cheque, the payee is entitled to present the same before the drawer’s bank within six (6) months from the date on which the cheque is drawn and in case of successive presentation of cheque due to failure to realise amount on

earlier occasions, the payee can present the cheque only within the validity period. Thus, this proviso only bars presentation of a cheque whether regular or a post-dated, beyond the stipulated period of six months (three months as per RBI direction dated 04.11.2011) but in my considered view, the proviso is not holding the presentation of a post-dated cheque with the drawer's bank before due date as a violation. It is only when the banker acts upon such early presentation and either pays the amount or returns the cheque for insufficient funds before due date, that violation attracts. In the instant case, breach of proviso (a) cannot be inferred for two reasons. Firstly, Exs.P.4 and P.5 were not presented before due date before drawer's bank i.e, Pinakini Grameena Bank, Nellore for payment but they were presented only with Andhra Bank, Nandyal for collection. Advance presenting before another bank other than the drawer's bank cannot be regarded as violation. Secondly, Andhra Bank, Nandyal remitted the cheque to Pinakini Grameena Bank for collection through the clearing house at Nellore and the drawer's bank returned Ex.P.4—cheque on 22.04.1997 (Ex.P.7) i.e, after due date and Ex.P.5—cheque on 22.04.1997 (Ex.P.8) i.e, on due date. Hence the drawer's bank has not done any overreachings. Hence I hold there is no violation of Section 138(a) of N.I. Act.

9) Second point is concerned, it is the contention of the accused that though complainant admitted in his sworn statement that he came to know about the dishonour of Ex.P.3—cheque on 24.03.1997 itself but he issued legal notice only on 12.04.1997, which is beyond fifteen days

prescribed under Section 138(b) of N.I Act and therefore, complaint is not maintainable. As per Section 138(b) of N.I Act, the payee or holder in due course of the cheque shall issue a notice in writing making a demand for the payment of the amount covered by the bounced cheque within fifteen days [thirty days as per Negotiable Instruments (Amendments and Miscellaneous Provisions) Act, 2012] of the receipt of information by him from the bank regarding return of the cheque as unpaid. Needless to emphasize, the issuance of notice is incorporated in Section 138 of N.I Act to give an opportunity to the drawer to pay the amount covered by the bounced cheque to avoid prosecution. Be that it may, the sworn statement of the complainant was recorded by the Magistrate in Telugu from which it can be understood that the complainant came to know from the Andhra Bank, Nandyal, that of the three cheques, the first one was dishonoured on 24.03.1997 and remaining cheques on 23.04.1997. So the dates mentioned against the cheques were the dates of dishonour but not the dates of his knowledge. In his evidence PW.1 clearly deposed that on 24.03.1997 Pinakini Grameena Bank, Nellore, dishonoured Ex.P3—cheque for Rs.2,00,000/- for insufficient funds and it was returned to complainant by Andhra Bank, Nandyal on 29.03.1997. So the complainant states that on 29.03.1997 he came to know about the dishonour of Ex.P.3 but not on 24.03.1997 itself. A perusal of Exs.P.3, P.6 and P.9 confirms the same. Ex.P.3 bears the stamp of Andhra Bank, Nellore with the date 22.03.1997 sending the cheque for clearing. From this it appears that when complainant presented the cheque with his banker i.e, Andhra

Bank, Nandyal, the said bank sent the same to its local branch at Nellore for collection through clearing house. Then Ex.P.6 shows that drawer's bank i.e, Pinakini Grameena Bank, addressed a letter dated 22.03.1997 stating that Ex.P.3—cheque was being returned for insufficient funds. This intimation was sent to the clearing house on 24.03.1997 as the stamp on Ex.P.6 confirms the same. Therefore, the complainant who stations at Nandyal has no opportunity to know the said fact on 24.03.1997 itself as contended. Remitting Ex.P.6, Andhra Bank, Nellore addressed a covering letter dated 24.03.1997 vide Ex.P.9 to Andhra Bank, Nandyal informing about the dishonour of cheque. Ex.P.9 was received by Andhra Bank, Nandyal only on 29.03.1997 which is evident by its bank stamp. Therefore by all means, the complainant could know about the dishonour of Ex.P.3—cheque only on 29.03.1997 but not earlier. Against dishonour of Ex.P.3, the complainant issued Ex.P.10—notice on 12.04.1997 which is within the time prescribed under Section 138(b) of N.I Act. On this aspect, the finding of the Trial Court is correct but the lower Appellate Court, it must be said flubbed. So these points are held in favour of complainant and against the accused.

10) **POINT No.3:** It is the case of the complainant that the accused was his dealer who indebted to him Rs.7,20,160.89 ps. in discharge of which he issued Exs.P3 to P5 cheques. The contention of the accused as can be found in his evidence as DW1 is that he was the dealer of complainant and he entered into agreement with PW1 as per which, he had to pay Rs.1,00,000/- as security for which PW1 took five blank

Cheque Nos.123961 to 123965 drawn on Pinakini Grameena Bank, Srinivasa Agraharam, Nellore and he issued the said five cheque leaves from out of the cheque book issued to him in the year 1995. The accused denied correctness of Ex.P2 and his acknowledging the same. Thus, the accused in Exs.P16 and P17—reply notices, denied the existence of legally enforceable debt and his signing on Ex.P2—ledger extract acknowledging the outstanding debt and also his issuing Exs.P3 to P5—cheques to the complainant for discharge of the said debt. His case is that the complainant pressed into service Exs.P3 to P5 blank cheque Nos.123962, 123963 and 123964 and filled the contents and filed false case. It is also his case that the complainant used the blank cheque No.123965 filled an amount of Rs.1,00,000/- and mentioned date 21.01.1997 towards security amount of Rs.1,00,000/- and presented in the bank and on its return issued Ex.D2—notice claiming the said amount. His submission is that while using blank cheque leaves, the complainant used later cheque No.123965 and put the early date of 21.01.1997, whereas for early cheque Nos.123962, 123963 and 123964 he put later dates i.e. 13.03.1997, 19.04.1997 and 22.04.1997 respectively which indicates that he managed the five blank signed cheques as he liked, unmindful of the serial numbers of the cheques and their respective dates. In the light of aforesaid respective contentions, the preliminary burden is on the complainant to establish that there existed a legally enforceable debt in discharge of which accused issued Exs.P3 to P5 cheques. The complainant mainly relied upon Exs.P1, P2, P16, P17, P20 and P23.

11) As can be seen from the evidence of DW1 (accused) he was having Aqua business dealings with complainant even prior to 1995 though he was appointed as dealer under Ex.P1 on 16.12.1995. In that back drop, the above documents have to be scrutinized.

12) As per Ex.P1—dealership letter dated 16.12.1995, the complainant appointed accused as his dealer at Nellore. Terms 10 and 11 of Ex.P1 are germane for consideration. Term No.10 stipulates that the dealer shall deposit a sum of Rs.1,00,000/- during February/March 1996 whereas Term No.11 reads that existing balance outstandings should be paid well before 01.02.1996. Though in Exs.P16 and P17 the accused contended that three cheques covered by Exs.P3 to P5 and some other cheques were given by him in the year July, 1995, nothing is mentioned in Ex.P1 to that effect. On the other hand, it is clearly mentioned that the accused shall deposit Rs.1,00,000/- during February/March 1996 and should clear the outstanding dues before 01.02.1996. If really five blank cheques were issued by the accused in July, 1995 itself, certainly on the date of Ex.P1, he would insist for return of those blank cheques or for their mentioning in Ex.P1 for his security. Nothing is mentioned about those cheques in Ex.P1. It is something unusual. Be that it may, Term No.10 clearly manifests that there existed outstanding dues from accused and that was why it is stipulated that dues should be cleared by 01.02.1996. Ex.P1 contains the signature of the accused and he has not disputed the genuinity of Ex.P1. On the other hand, in the cross-examination he admitted that prior to

Ex.P1 he had business dealing with complainant since December, 1994 and it was true there was a condition in Ex.P1 that the outstanding balance had to be cleared off before 01.02.1996. Most importantly, he further admitted he had no receipt to show that he cleared off the outstanding debt as on 26.11.1995 before 01.02.1996. He admitted that himself and PW1 signed on Ex.P1. He also admitted that he did not have any voucher to show that he deposited Rs.1,00,000/- with PW1. All the aforesaid admissions of accused establish that he owed amounts to complainant by the date of Ex.P1 which he agreed to clear off before 01.02.1996. Therefore, now the crucial question is, whether by 18.02.1997 the outstanding amount was Rs.7,20,160.89 ps. as revealed in Ex.P2—ledger extract and whether accused having admitted the same subscribed his signature thereon.

13) No doubt, accused vehemently denied his signature on Ex.P2. However, the other facts and evidence probablises that accused indeed signed on Ex.P2 having admitted the due amount reflected in Ex.P2. The accused admitted in the cross that after appointing him as dealer under Ex.P1, goods to a tune of Rupees 4 to 6 lakhs were supplied to him and he had receipts to show that he paid the entire value of the goods supplied by PW1. However, he did not produce any receipts thereby, allowing this Court to draw an inference that Rupees 4 to 6 lakhs worth of the goods were received by him metamorphosed into an outstanding due to a tune of Rs.7,20,160.89 ps. as mentioned in Ex.P2. Not only the admission of the accused, but Exs.P20 and P23 statement

of accounts maintained by the complainant also revealed the dues of accused and others. As per Ex.P20, the accused was a trade debtor of the complainant to a tune of Rs.6,63,415.75 ps. for the year 1995-96 and as per Ex.P23, the accused was shown as trade debtor to a tune of Rs.3,07,733.75 ps. for the year 1994-95. Further, the accused also admitted about his dues in Exs.P16 and P17—reply notices about his outstanding dues as follows:

“However, our client states that three cheques were given to unfilled up to one Vijaya Raghava along with other cheques in the month of July, 1995 when our client started the business afresh after a fire accident in his godown and subsequently your client stopped production from June, 1996 and due to non-supply of the material, our client suffered a lot and because of that his outstandings unpaid and our client accosted your client and aggrieved by the same your client is causing this notice with all false and untenable allegations.”

He clearly mentioned that due to non-supply of the material by the complainant, the accused suffered a lot and because of that outstanding unpaid. The trial Court rightly regarded it as an admission on the part of accused, but lower appellate Court applied altogether a different interpretation which, in the light of the other admissions of DW1 and Exs.P20 and P23, cannot be countenanced.

14) In view of the aforesaid discussion, there can be no demur there existed a legally enforceable debt of Rs.7,20,170.89 ps. as mentioned in Ex.P2 and accused having signed on it, took U-turn to wriggle out his liability. It also follows that in discharge of said debt only, the accused issued Exs.P3 to P5 cheques. His contention that towards security of

Rs.1,00,000/- the complaint obtained five blank cheques from him cannot be accepted for various reasons. Firstly, he admitted in his evidence he had no record to show that he issued five blank cheques to PW1 for the year 1995. He tried to give explanation that because the blank cheques were issued the same was not reflected in his accounts. This, though sounds reasonable, but that is not end of the matter. According to him, the complainant misused one of the cheques bearing No.123965 and mentioned Rs.1,00,000/- with date 21.01.1999 and presented in the bank and after its return he issued notice to him. If that is the case, the accused must have given reply denying the notice allegations and he must have also demanded complainant to return the remaining four blank cheques. Though he filed Ex.D2 (=D4)—notice issued by the complainant, he did not file the copy of reply notice to show that he gave reply and demanded return of remaining four cheque leaves. Strangely, in his evidence he did not even mention about his issuing reply. Therefore, the blank cheques theory is a myth. Secondly, the accused did not take any action against complainant by lodging complaint for the alleged misuse of the cheque leaves. This conspicuous apathy of accused also debilitates his contention. Thirdly, even assuming the accused was prepared to give a blank cheque for security of Rs.1,00,000/-, as rightly observed by the trial Court, one blank cheque would be sufficient for the said purpose and there was no need for him to give five blank cheques. On that ground also his contention can be rejected. Fourthly, though Ex.D3 discloses that except Exs.P3 to P5, all other leaves of the cheque book were used in the year 1995 itself,

by that count one cannot come to the conclusion that the accused issued five blank cheques to complainant. Therefore, there can be no demur that the accused himself has given Exs.P3 to P5 cheques in discharge of legally enforceable debt and also the cheque bearing No.123965 for Rs.1,00,000/- towards security amount and the complainant did not misuse the unfilled cheques as contended by the accused. When it is believed that accused himself issued cheques, the complainant cannot be held responsible if the serial number of cheques and their dates were not matched. So, on that argument, the truthfulness of the complaint cannot be doubted.

15) Finally, the accused tried to take undue advantage from the fact that in description of cause title, the complainant was referred as Proprietor of Nandyal Aqua Feeds Private Limited, whereas in the foot of the complainant he signed as Managing Director of Nandyal Aqua Feeds Private Limited. The accused contended that if at all the cheques were issued, they were issued to one G.Vijaya Raghavan, Proprietor of Nandyal Aqua Feeds Private Limited and not to G.Vijaya Raghavan, Managing Director of Nandyal Aqua Feeds Private Limited and therefore, complaint is not maintainable. This argument does not hold water for the reason, merely because accused, while issuing Ex.P.3—cheque referred the complainant as Proprietor of Nandyal Aqua Feeds Private Limited, which is a wrong description, the complainant will not lose his right to file complaint. It should be noted that Exs.P3 and P4 were issued in the name of Nandyal Aqua Feeds Private Limited and complainant being Managing Director of said concern which is evident

from Exs.P28 and P29, empowered to lodge complaint in respect of those two cheques. So far as Ex.P3 is concerned, though he was referred as Proprietor, Nandyal Aqua Feeds Private Limited, same is not a proprietary concern but a limited company for which the complainant is the Managing Director and hence he can file complaint in respect of P3 also. As rightly pointed by the trial Court, it is not the case of accused that he did not have business dealings with PW1 at all. It is also not his case that there is another Proprietary concern by name Nandyal Aqua Feeds Private Limited whose Proprietor is G.Vijaya Raghavan. If that were his case, it might remotely be presumed that he issued cheques to a different concern. That is not the case here.

16) So, on a conspectus it is held, the lower Appellate Court misread the facts and evidence and committed error in setting aside the judgment of the trial Court.

17) In the result, this Criminal Appeal is allowed by setting aside the judgment in Criminal Appeal No.164 of 2001 passed by the learned III Additional Sessions Judge, Kurnool at Nandyal and consequently the conviction and sentence passed by the Trial Court in C.C.No.121 of 1997 is confirmed. The Trial Court shall issue warrant to the accused to secure his presence and serve the sentence.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

U. DURGA PRASAD RAO, J

Date: 14.09.2018

Note: LR Copy to be marked: Yes / No
Scs/Murthy