

THE HON'BLE SRI JUSTICE P.KESHA RAO

CRIMINAL REVISION CASE No.631 OF 2018

ORDER:

This Criminal Revision Case is filed questioning the orders passed in CrI.M.P.No.174 of 2018 in C.C.No.1056 of 2015 dated 20.02.2018 on the file of Court of the Additional Judicial Magistrate of First Class, Sangareddy, in dismissing the petition filed under Section 311 of Cr.P.C.

Heard the learned counsel for the petitioner as well as the learned Public Prosecutor. Though notice is served on the counsel for the 2nd respondent in the Court below vide U.S.R.No.15103 of 2018, there is no representation.

The facts of the case are that the petitioner herein is the accused charge sheeted for the offence under Section 138 of Negotiable Instruments Act. In the C.C., the evidence of complainant/2nd respondent is closed and the matter was coming up for defence evidence. On 01.02.2018, the matter was posted for defence evidence. It is mentioned in the petition that during the call work, the petitioner represented the Court to pass over the matter as his counsel was coming from Hyderabad. The matter was passed over. Immediately after call work, when the matter was called, the petitioner could not represent the matter properly. In those circumstances, the evidence of the petitioner was closed and the matter was posted on 08.02.2018 for arguments. Whereupon, the petitioner filed petition in CrI.M.P.No.174 of 2018 under Section 311 of Cr.P.C. to recall D.W.1 for his evidence. The

said application was dismissed by orders dated 20.02.2018. Questioning the said orders, the present revision is filed.

The counsel appearing for the petitioner would submit that on 01.02.2018 the petitioner has informed the Court during the call work that his counsel is coming from Hyderabad and it was for second time he could not represent properly. In those circumstances, the evidence of the petitioner was closed. In fact, on the said date the petitioner along with another witness was very much available in the Court to adduce their evidence. However, a perusal of the impugned proceedings would indicate that the C.C. was coming up for defence evidence from 18.12.2017 onwards and the matter was adjourned, as per docket proceedings, on 03.01.2018, 08.01.2018, 24.01.2018, 25.01.2018 and 01.02.2018. In spite of giving such opportunities, the petitioner has not chosen to adduce his evidence. Therefore, on 01.02.2018, the matter was called more than three times during the Court working hours and the defence evidence was closed. But, it is mentioned in the impugned order that the counsel for the petitioner has represented the matter after the Court hours stating that the accused could not make a proper representation before the Court.

From the above, it appears that the petitioner herein was ready with his evidence on 01.02.2018. However, as his counsel from Hyderabad could not reach the Court in time and as there was no proper representation before the Court, the defence evidence of the petitioner was closed. In these circumstances, this Court deems it appropriate to give one more opportunity to the

petitioner to adduce his evidence and any other witness on his behalf.

Accordingly, the Criminal Revision Case is allowed setting aside the orders passed in CrI.M.P.No.174 of 2018 in C.C.No.1056 of 2015, dated 20.02.2018 and the petitioner is directed to appear before the trial Court on 03.07.2018 and lead his evidence without fail. If the petitioner fails to adduce his evidence on the said date, no further opportunity will be given to him and the trial Court is at liberty to proceed in accordance with law.

Pending miscellaneous petitions, if any, shall also stand closed.

28th JUNE 2018.
Note: Issue C.C. today
(B/o) Tsr

P.KESHAVA RAO,J

