

HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

Crl.R.C. No.615 of 2018

ORDER:

This Criminal Revision Case is filed by the petitioner/appellant aggrieved by the order dated 23.02.2018 in Cr.M.P.No.14/2018 in CF No.148/2018 on the file of Sessions Judge, Ananthapuramu, whereby and whereunder the learned Judge dismissed the application filed by the petitioner to condone the delay of 507 days in filing the appeal with the observation that the petitioner knowing fully well about the proceedings before the lower Court, failed to appear before it on the date of pronouncement of judgment and thereafter, he did not file any appeal and it was only after the warrant was executed, he filed the appeal and there were no merits in his application to condone the delay.

2) Heard Sri K.L.B. Kumar, learned counsel for petitioner. Notice to respondent No.2 not served as the postal Track Consignment filed by the petitioner reads "*item delivery attempted door locked and intimation served*". In these circumstances, service of notice on respondent No.2 is presumed following the decision in ***C.C.Alavihaji vs. Palapetty Muhammed and another*¹**.

3) The submission of learned counsel for petitioner is that on the date of pronouncement of judgment before the lower Court, he was held up at Gauhati on official work and a petition was filed to condone his absence but the same was dismissed and his absence was neither wanton nor

¹ (2007) 6 SCC 555

willful and considering that he was convicted in the Criminal Court, the Appellate Court ought to have condoned the delay to enable him to prosecute his appeal.

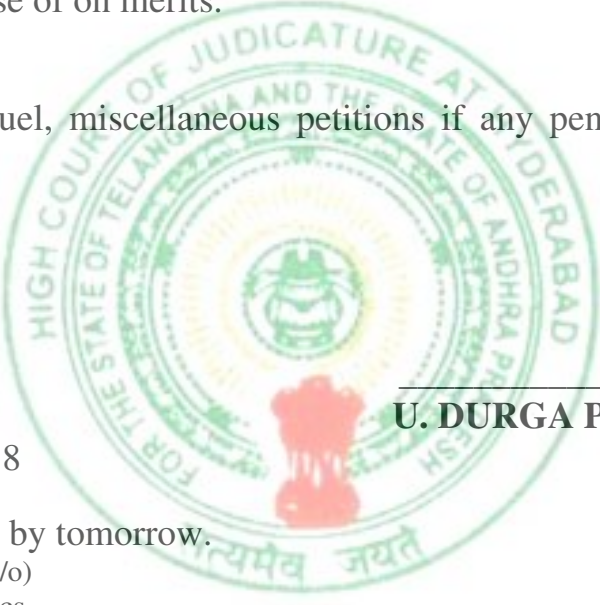
4) Considering the submission of learned counsel for petitioner in the interest of justice, this Criminal Revision Case is allowed and the impugned order dated 23.02.2018 in Cr.M.P.No.14/2018 in CF No.148/2018 is set aside by condoning the delay of 507 days in filing the appeal. The Appellate Court is directed to register the appeal and hear the same and dispose of on merits.

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

Date: 14.03.2018

Note: Issue C.C by tomorrow.

(b/o)
scs



U. DURGA PRASAD RAO, J