

HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL REVISION CASE No.817 of 2018

ORDER:

Heard the learned counsel for the petitioner as well as the 1st respondent.

The present revision case is filed questioning the docket order dated 05.07.2017 passed in CrI.A.No.832 of 2014 on the file of the XIII Additional District and Sessions Judge, Ranga Reddy District at L.B. Nagar, dismissing the criminal appeal for non-representation.

The facts of the case are that the 1st respondent herein filed a complaint vide C.C.No.174 of 2013 (old C.C.No.739 of 2013) for the offence under Sections 138 and 142 of the Negotiable Instruments Act against the petitioner. After trial, the learned Special Judicial Magistrate Court-II at Rajendranagar, Ranga Reddy District, sentenced the petitioner to suffer rigorous imprisonment for six months and further directed to pay an amount of Rs.2,00,000/- to the complainant i.e., the 1st respondent herein in two instalments within two months from the date of the judgment on 07.10.2014. Aggrieved by the same, the petitioner filed an appeal in CrI.A.No.832 of 2014 on the file of the learned XIII Additional District and Sessions Judge, Ranga Reddy District at L.B. Nagar. During the course of hearing, the appeal was posted to 05.07.2017 for deposit of process. On 05.07.2017, as there was no representation during the call work and even

at 3.55 p.m., the learned Sessions Judge dismissed the appeal. Aggrieved by the same, the present revision case is filed.

Learned counsel appearing for the petitioner would contend that without giving any opportunity to the petitioner, the lower appellate Court ought not to have dismissed the appeal. From 2015 onwards, the father of the petitioner fell ill and he was going around the hospitals and the same was informed to his counsel to look after the case on his behalf. Later, his father died and as such he could not contact his counsel. In these circumstances, the process could not be deposited for appearance of the 1st respondent in the appeal. For non-deposit of process and for non-representation, the appeal was dismissed. However, the said act of non-representation and non-deposit of process is only due to the reasons stated supra.

Per contra, the learned counsel appearing for the 1st respondent opposed the same and submitted that there are no bona fides on the part of the petitioner in making such submission. In fact, no such evidence has been placed before the Court below.

Having heard both the counsel and a perusal of the material on record, it is revealed that the appeal was dismissed for non-representation. However, in the peculiar facts and circumstances of the case, this Court feels it appropriate to give an opportunity to the petitioner to pay the

process for appearance of the 1st respondent by filing an appropriate application, subject to certain terms.

Accordingly, the criminal revision case is allowed setting aside the docket order dated 05.07.2017 passed in CrI.A.No.832 of 2014 on the file of the XIII Additional District and Sessions Judge, Ranga Reddy District at L.B. Nagar, Hyderabad, subject to the petitioner depositing a sum of Rs.1,00,000/- (Rupees One lakh only) to the credit of C.C.No.174 of 2013, within a period of four weeks from today.

Miscellaneous petitions, if any, shall stand closed.

P. KESHAVA RAO, J

Date: 05.07.2018.
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