

HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL REVISION CASE No.1019 of 2018

ORDER:

Pursuant to the orders dated 15.06.2018, personal notice taken out on the second respondent is served on 05.07.2018 as per the track consignment report and the same is filed in this Court vide USR No.57412, dt.8.8.2018. In spite of service of notice, the second respondent either chosen to appear in person or by engaging any counsel.

Heard the counsel for the petitioner.

The present revision case is filed questioning the order dated 02.04.2018 passed in CrI.M.P.No.158 of 2018 in CrI.A.No.30 of 2018 on the file of the Court of the Metropolitan Sessions Judge, Hyderabad in dismissing the petition filed under Section 389(1) Cr.P.C. seeking suspension of the judgment dated 22.12.2018 passed in C.C.No.199 of 2016 on the file of the X Special Magistrate, at Hyderabad.

The brief facts of the case are that the petitioner is charged for the offence under Section 138 of the Negotiable Instruments Act. On trial, the learned Magistrate, was pleased to convict the petitioner by judgment dated 22.12.2017 and sentenced him to pay a fine of Rs.1,50,000/-, in default to suffer simple imprisonment for one month. Aggrieved by the said judgment, the petitioner filed CrI.A.No.30 of 2018 on the file of the Metropolitan Sessions Judge, Hyderabad. Pending the appeal, a petition in CrI.M.P.No.158 of 2018 is filed seeking suspension of the judgment dated 22.12.2017 passed in C.C.No.199 of 2016. The lower appellate Court, on 18.01.2018 allowed the petition and directed the petitioner to

deposit half of the cheque amount on or before 16.02.2018 to which date the appeal stands posted. On 02.04.2018 when the matter was posted, as there was no representation and since it was not informed to the lower appellate Court whether the order dated 18.01.2018 has been complied with or not, the petition was dismissed. Aggrieved by the same, the present revision case is filed.

Learned counsel appearing for the petitioner, would contend that the condition of directing the petitioner to deposit half of the cheque amount, is onerous and the petitioner is not in a position to comply with the same. He also brought to the notice of the Court that the petitioner has deposited a sum of Rs.10,000/- to the credit of C.C.No.199 of 2016. It is also informed that for non-compliance of the orders passed in CrI.M.P.No.158 of 2018 dated 18.01.2018, the petitioner is arrested and is in jail.

Though notice is served, there is no representation on behalf of the second respondent. The track consignment report, vide USR No.57412, dated 08.08.2018 filed before this Court is made part of the record.

Having heard the learned counsel appearing for the petitioner and from the perusal of the material on record, it is revealed that the petitioner is working as a Photographer and is not in a position to comply with the orders dated 18.01.2018. Therefore, the condition imposed by the lower appellate Court is onerous. In these circumstances, this Court deems it appropriate to set aside the impugned order dated 02.04.2018 in dismissing the CrI.M.P.No.158 of 2018, modifying the condition of directing the

petitioner to deposit half of the cheque amount into Rs.25,000/- (Rupees Twenty Five thousand only).

Accordingly, the criminal revision case is partly allowed in setting aside the order passed in CrI.M.P.No.158 of 2018 in CrI.A.No.30 of 2018 on the file of the Court of the Metropolitan Sessions Judge, Hyderabad, and modify the order directing the petitioner to deposit half of the cheque amount to the extent of depositing Rs.25,000/- within three weeks from today.

As a sequel, the miscellaneous petitions, if any, stand closed.

Date: 08.08.2018.
CCM



P. KESHAVA RAO, J

HONOURABLE SRI JUSTICE P. KESHA VA RAO



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Date:08.08.2018

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