

THE HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL REVISION CASE NO.2041 OF 2018

ORDER:

Heard the learned counsel for the petitioner and the learned Special Public prosecutor appearing for the respondent State.

2. The present Criminal Revision Case is filed questioning the orders passed in CrI.M.P.No.412 of 2016 in C.C.No.10 of 2006 dated 28.3.2018 on the file of the Court of III Additional Special Judge for C.B.I. Cases, Visakhapatnam.

3. The facts in brief are that the petitioner herein is arrayed as accused No.2 in the above said Calendar Case for the offence under Sections 420, 468, 409, 471 IPC and Sec.13 (1) (c) & (d) r/w 13 (2) of Prevention of Corruption Act, 1988. Pending the Calendar Case, the prosecution filed CrI.M.P.No. 412 of 2016 under Section 3 of Criminal Law Amendment Ordinance, 1944 read with Section 5(6) of Prevention of Corruption Act, 1988 to attach the schedule property acquired by the petitioner herein. The said petition has been dismissed by the Special Court on 28.3.2018. Aggrieved by the same, the present Criminal Revision Case is filed.

4. Learned counsel for the petitioner would contend that no opportunity has been given to the petitioner herein for disposal

of the above said Criminal Miscellaneous Petition. In fact, the petition has been dismissed on the date of pronouncement of the judgment in the main Calendar Case. It is also brought to the notice of this Court that aggrieved by the conviction orders passed in the above said Calendar Case, the petitioner filed an appeal in CrI.A.No.1322 of 2018 in this Court.

5. Per contra, learned Special Public Prosecutor appearing for the respondent State would contend that the petitioner, in response to the CrI.M.P.No.412 of 2016, simply filed a counter and the petitioner has not insisted for disposal of the said application and also not followed the mandatory procedure as contemplated under the provisions of the Criminal Amendment Ordinance. Therefore, the present Criminal Revision Case filed, is not maintainable.

6. Having heard both the counsel and from the perusal of the material on record, it is revealed that the prosecution, pending the Calendar Case, filed CrI.M.P.No.412 of 2016 for attachment of the properties to safeguard the interest of the prosecution. Though the said petition has been filed, except filing a counter, it appears the petitioner has not taken any steps for disposal of the same. The petitioner ought to have taken steps for disposal of the said Criminal Petition pending the Calendar Case. Since the petitioner has been convicted

after a full fledged trial and against which the appeal filed is pending consideration in this Court, the petitioner can move an appropriate application in the appeal.

7. Having not taken any steps, it is not open for the petitioner to file the present Criminal Revision Case against the dismissal of CrI.M.P.No.412 of 2016. As such, there are no merits in the Criminal Revision Case.

8. Accordingly, the Criminal Revision Case is dismissed. However, liberty is given to the petitioner to move an appropriate application in the appeal and seek orders.

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

Date: 6.8.2018

KPM



P. KESHA RAO,J