

THE HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL REVISION CASE NO.1461 OF 2018

ORDER:

Heard the learned counsel for the petitioner as well as the learned Public Prosecutor.

2. The present Criminal Revision Case is filed questioning the orders passed in CrI.M.P.No.1449 of 2018 in CrI.M.P.No.548 of 2018 in CrI.A.No.113 of 2018 dated 19.4.2018 on the file of the Court of Metropolitan Sessions Judge, Hyderabad.

3. The facts of the case are that the petitioner herein is the accused for the offence Under Section 138 of the Negotiable Instruments Act in C.C.No.251 of 2017 on the file of the XXI Special Magistrate, Hyderabad. On contest, the petitioner herein was sentenced to undergo simple imprisonment for a period of one year and to pay fine of Rs.50,10,000/- and in default to undergo sentence of imprisonment for a period of three months vide judgment dated 19.1.2018. Aggrieved by the said judgment, the petitioner herein filed an appeal in CrI.A.No.113 of 2018 on the file of the Court of Metropolitan Sessions Judge, Hyderabad. Pending the appeal, the petitioner herein filed a petition vide CrI.M.P.No.548 of 2018 seeking suspension of sentence imposed in C.C.No.251 of 2017 on the file of the Court of XXI Special Magistrate, Hyderabad. The

lower appellate Court, on 26.2.2018, passed the following order:

“As per the order in CrI. Petition No.918/2018 of Hon’ble High Court, suspension of sentence can be granted on condition of deposit of 10% of the cheque amount.

In the result, the petition is allowed and the petitioner is directed to deposit 10% of the cheque amount, on or before 16.3.2018, to which date the appeal stands posted and in addition to that the petitioner shall abide by the terms and conditions imposed by the trial Court while suspending the sentence. If any amount is deposited by the petitioner in trial court at the time of suspension of sentence, it shall be deducted from the amount now ordered to be deposited.”

4. Since the petitioner could not comply with the orders dated 26.2.2018, he filed a petition in CrI.A.M.P.No.1449 of 2018 seeking 15 days time to comply with the orders dated 26.2.2018 in depositing the balance amount of Rs.5,00,000/-. However, the said petition, was dismissed by the lower appellate Court by orders dated 19.4.2018 on the ground that the petitioner did not deposit the amount as per the orders passed on 26.2.2018. Therefore, it was directed to inform the trial Court that there was no suspension of sentence.

Aggrieved by the said orders, the present Criminal Revision Case is filed.

5. Learned counsel appearing for the petitioner would submit that the petitioner is residing at Bangalore. He entered into an agreement with third parties to sell his property. But the amount of sale consideration could not be received as the purchasers sought 15 days time for payment of the sale consideration. The petitioner is also trying to settle the matter by paying the due amount. Further, he also brought to the notice of the Court that in view of the recent elections in the State of Karnataka, there was difficulty for him to find a purchaser. However, he informs the Court that at present the petitioner is ready to deposit the balance amount in compliance with the orders passed by the learned Metropolitan Sessions Judge, Hyderabad dated 26.2.2018.

6. Learned counsel further brought to the notice of this Court that pursuant to the orders dated 19.4.2018, warrants have been issued and there is every threat of arrest.

7. Learned Public Prosecutor appearing for the 1st respondent State, has not opposed the present Criminal Revision Case.

8. Having regard to the facts and circumstances available in the present case and also taking into consideration, the

statements made by the learned counsel for the petitioner, the time to comply with the orders passed in CrI.M.P.No.548 of 2018 in CrI. A.No.113 of 2018 dated 26.2.2018 is enlarged by another two weeks from today enabling the petitioner to deposit the balance amount. On such deposit, the XXI Special Magistrate, Hyderabad, is directed to recall the warrants issued against the petitioner on filing a fresh application. It is also made clear that on deposit of such amount, the petitioner can move a fresh application for suspension of the sentence awarded against him in C.C.No.250 of 2017 before the lower appellate Court and on such filing, the lower appellate Court is directed to consider the same and pass appropriate orders on the same day.

9. With the above said observations, Criminal Revision Case is disposed of.

Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

P. KESHA RAO,J

Date: 14.6.2018

KPM