

THE HON'BLE JUSTICE SRI GUDISEVA SHYAM PRASAD**CRIMINAL REVISION CASE No.1784 of 2018****ORDER :**

This revision is arising out of the judgment dated 08.02.2018, passed in Criminal Appeal No.415 of 2015, by the learned V Additional District and Sessions Judge, Tirupati, dismissing the appeal.

2. The petitioner is the accused in C.C.No.296 of 2015, which was registered on the complaint filed under Section 200 of Criminal Procedure Code against the accused for the offence punishable under Section 138 read with 142 of Negotiable Instruments Act, 1881 by the *de facto* complainant / respondent No.1 herein. The learned V Additional Judicial Magistrate of I Class, Tirupati vide Judgment dated 06.11.2015 has convicted the revision petitioner and sentenced him to undergo simple imprisonment for one year and to pay a fine of Rs.5,000/- with default sentence for the offence punishable under Section 138 read with 142 of Negotiable Instruments Act.

3. The revision petitioner, aggrieved by the impugned judgment, has preferred Criminal Appeal No.415 of 2015 on the file of V Additional District and Sessions Judge, Tirupati. The learned District Judge dismissed the appeal on 08.02.2018 for non prosecution and issued Nonbailable Warrant against the accused as he is absconding and he has not paid costs imposed for his non appearance before the Court. Aggrieved by the impugned order dated 08.02.2018, this revision has been preferred.

4. Heard arguments of the learned counsel for the revision petitioner and learned Additional Public Prosecutor for respondent No.2.

5. The learned counsel for the petitioner submits that the petitioner has got good grounds to succeed in his appeal, but due to non appearance, his appeal was dismissed and therefore, sought an opportunity to contest the appeal by setting aside the orders passed by the Appellate Court.

6. The Additional Public Prosecutor submits that as the revision petitioner was absent, the appeal was dismissed for default and Nonbailable Warrant was issued against him.

7. The order passed by the Trial Court is one for dismissal for default, as the petitioner could not appear on that particular date to contest the matter. It is also pertinent to note that Nonbailable Warrant was issued against the accused and it is pending. The accused has preferred this revision, seeking opportunity to contest the appeal on merits evading the arrest under Nonbailable Warrant. It is obvious that he is evading arrest or else he would have surrendered before the court and obtained bail.

8. Having regard to the facts and circumstances of the case, the petitioner is directed to surrender before the Appellate Court within a week and may move a petition for grant of bail, on such surrender, the Trial Court may proceed with the hearing of the said petition. With these observations the Criminal Revision Case is disposed of.

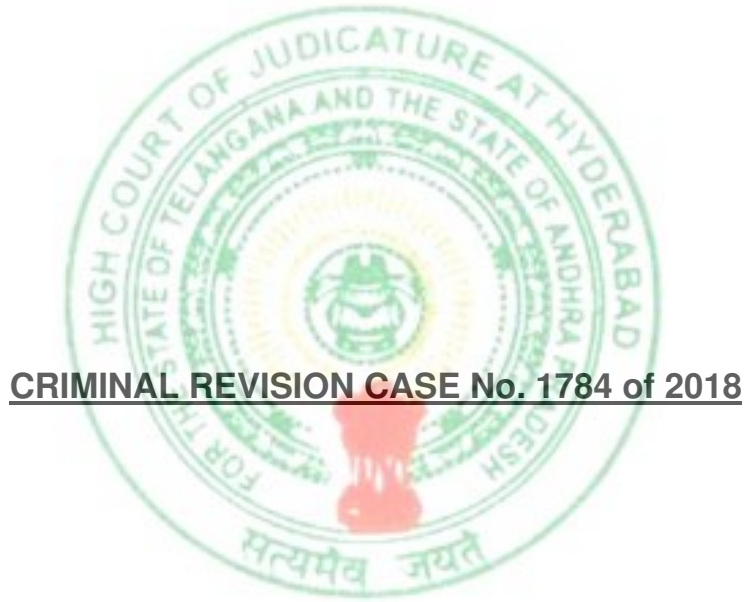
Miscellaneous Petitions pending, if any, shall stand closed. No order as to costs.

GUDISEVA SHYAM PRASAD,J

Dated: 23.10.2018

JR

THE HON'BLE JUSTICE SRI GUDISEVA SHYAM PRASAD



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Dated: 23rd October, 2018

JR

