

THE HONOURABLE SRI JUSTICE P.KESHAVA RAO

CRIMINAL REVISION CASE No.2203 OF 2014

ORDER:

Heard the learned counsel for the petitioners.

Pursuant to the orders of this Court, the personal notice taken out on the first respondent was returned un-served with an endorsement "unclaimed". The same is filed as proof of service *vide* USR No.309 of 2015, dated 23.1.2015. Therefore, this Court takes the said endorsement as deemed service.

The present Criminal Revision Case is filed challenging the orders passed in Criminal Miscellaneous Petition No.592 of 2014 in Criminal Appeal No. 811 of 2014, dated 28.10.2014 on the file of III Additional District and Sessions Judge, Ranga Reddy District, at LB.Nagar.

The facts in brief are that the first respondent herein filed a complaint *vide* C.C.No.19 of 2014 against the petitioner for the offence under Section 138 of Negotiable Instruments Act. The trial Court, after trial convicted the petitioner *vide* Judgment, dated 30.9.2014 sentencing him to undergo simple imprisonment for a period of three months and to pay a fine of Rs. 7,00,000/- towards compensation, within one month, failing which, he has to undergo simple imprisonment for another three months. Aggrieved by the same Judgment, the petitioner filed an appeal in Criminal Appeal No.811 of 2014 on the file of the Court of III Additional District Judge, Ranga Reddy District. Pending the appeal, the petitioner filed CrI.M.P.No.592 of 2014 seeking suspension of the conviction

and sentence as awarded in C.C.No.19 of 2014. The lower appellate Court, after hearing passed orders on 28.10.2014 suspending the operation of sentence passed by the trial Court till the disposal of the appeal on the condition that the petitioner shall deposit 1/4th of the compensation amount as awarded by the trial court and on his executing bond for Rs.10,000/, with two sureties each for a like sum to the satisfaction of the trial Court. As far as the second limb is concerned, the petitioner has complied with the same, by executing a bond for a sum of Rs. 10,000/- with two sureties for the like sum. Aggrieved by the first limb of the order directing him to deposit 1/4th of the compensation amount, the Criminal Revision Case is filed.

Learned counsel appearing for the petitioner would contend that the condition imposed by the lower appellate Court is improper and unsustainable in law. While suspending the sentence, the lower appellate Court cannot direct him to deposit 1/4th of the amount and the condition imposed by the lower appellate Court is onerous.

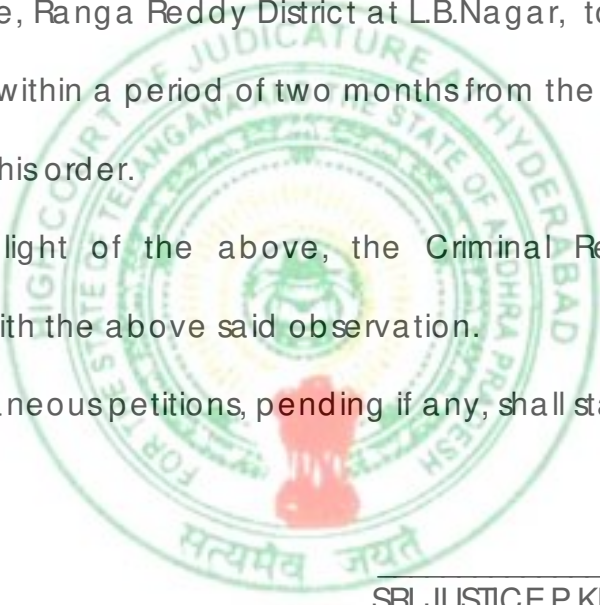
Though the notice is ordered, the first respondent refused to receive the same.

This Court on 06.11.2014 in CrI.R.C.M.P.No.3644 of 2014 granted interim suspension of the order, dated 28.10.2014 in CrI.M.P.No.592 of 2014 in CrI.A.No.811 of 2014, with regard to payment of 1/4th of the compensation amount, within a period of two weeks from the date of the order, in view of the Judgments of the Apex Court reported in *(2007) 6 SCC 528 and 2012 (1) ALD (CrI.) 803 (SC)*. Though the Section 357 (3) of Cr.P.C. contemplates that when the court imposes a sentence of which fine does not form a

part, the Court may, when passing the Judgment, order the accused person to pay by way of compensation such amount as may be specified in the order, unlike sub Section 2 of Section 357 Cr.P.C., which contemplate that the fine is imposed in a case which is subject to appeal, but still this Court having considered the facts and circumstances, can suspend the compensation imposed by the trial Court. Therefore, in the light of the law laid down by the Apex Court, as stated supra, this Court without expressing anything on merits, direct the III Additional District and Sessions Judge, Ranga Reddy District at L.B.Nagar, to dispose of the appeal itself, within a period of two months from the date of receipt of a copy of this order.

In the light of the above, the Criminal Revision Case is disposed of with the above said observation.

Miscellaneous petitions, pending if any, shall stand closed.



SRI JUSTICE P.KESHA VA RAO, J

Dated: 10/09/2018
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THE HONOURABLE SRI JUSTICE P.KESHA RAO



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