

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL REVISION CASE No.238 of 2012

ORDER:

Aggrieved by the Judgment, dated 30.4.2010 in S.T.C.No.88 of 2005 passed by Judicial First Class Magistrate, Puttur, dismissing the complaint, the petitioner/complainant filed the instant criminal revision case. The Judgment reads thus:

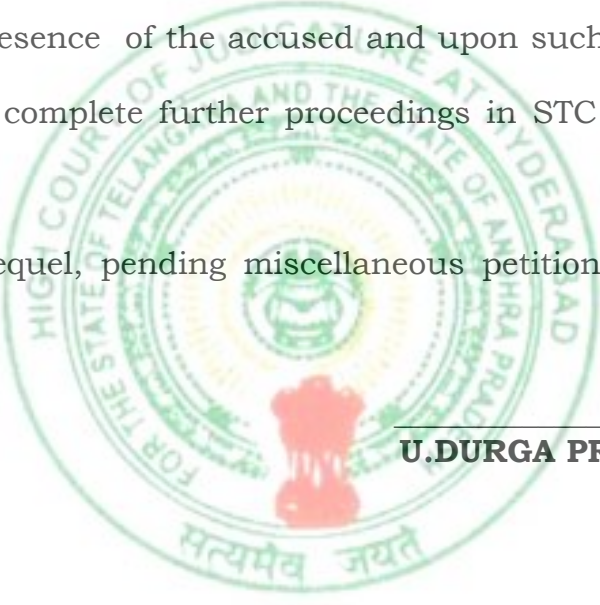
“Complainant absent. Petition filed and dismissed. Commissioner represented that he cannot execute the warrant of accused and that he returned the Commissioner Warrant. Hence, the complaint is dismissed.”

2. The submission of learned counsel for petitioner is that S.T.C.No.88 of 2005 relates to an offence under Section 138 of Negotiable Instruments Act, 1988 and after evidence was over, the accused absconded and at the instance of the petitioner, the trial Court appointed an Advocate Commissioner to execute the warrant and secure the accused. However, the Advocate Commissioner could not execute the warrant and hence, he returned the warrant to the Court. Thereafter, instead of giving opportunity to the petitioner/complainant to take further steps for securing the presence of the accused to hearing arguments and pronounce the Judgment, the trial Court, at one stroke dismissed the complaint, which is unjust and unwarranted. Learned counsel for petitioner would, thus pray to set aside the Judgment of the trial Court and give an opportunity to the petitioner to file a fresh application for appointment of Advocate Commissioner to execute the warrant and to secure the presence of the accused to complete the proceedings in STC No.88 of 2005.

3. From the impugned Judgment, it would appear that the Advocate Commissioner returned the warrant and the Court dismissed the complaint without affording an opportunity to him to take further steps in the matter. It is a cheque bouncing case and valuable rights of complainant are involved in this matter.

4. In that view, the criminal revision case is allowed and the impugned Judgment is set aside directing the trial Court to appoint an Advocate Commissioner afresh, on the petition to be filed by the petitioner/ complainant and issue warrant to him to secure the presence of the accused and upon such production of the accused, complete further proceedings in STC No.88 of 2005 expeditiously.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.



U.DURGA PRASAD RAO, J

Date: 26/10/2018

slk

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