

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Crl.R.C.No.667 of 2013

ORDER:

This Crl.R.C is filed by the petitioner/appellant aggrieved by the order dated 11.02.2013 in Crl.M.P.No.3083/2013 in unnumbered C.A.No.____/2012 passed by the learned Sessions Judge, Guntur, dismissing the petition filed by the petitioner/appellant under Section 5 of Limitation Act to condone the delay of 167 days in preferring the appeal.

2) The impugned order was passed by the learned Judge as there was no representation on behalf of the petitioner/appellant when the matter was called during the call work and during trial work.

3) Notice to 1st respondent herein was served but there is no representation on his behalf. Hence heard learned counsel for petitioner.

4) Learned counsel for petitioner would submit that the petitioner/appellant is the complainant in C.C.No.666/2010 on the file of Judicial Magistrate of First Class for Railways, Guntur, which was filed under Sections 138 and 140 of Negotiable Instruments Act. The Trial Court dismissed the complaint and acquitted the accused as per its judgment dated 25.04.2012. Aggrieved by the said judgment, the petitioner/appellant filed unnumbered C.A.No.____/2012 with a delay of 167 days. Hence he filed Crl.M.P.No.3083/2012 to condone the

delay. However, due to his absence the said petition was dismissed on 11.02.2013. Learned counsel would submit that valuable rights of the complainant are at stake and hence an opportunity may be given to the petitioner to submit to the lower Appellate Court about the reasons for delay in filing the appeal.

5) Considering the above submission, this Crl.R.C. is allowed by setting aside the impugned order dated 11.02.2013 passed by the learned Sessions Judge, Guntur and consequently, the Crl.M.P.No.3083/2012 in unnumbered C.A.No.____/2012 is restored to its file and the lower Appellate Court is directed to hear both parties and pass an appropriate order on merits.

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

Date: 26.11.2018
scs

U.DURGA PRASAD RAO, J