

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CRIMINAL REVISION CASE NO.3015 OF 2018

ORDER:

This revision is filed under Sections 397 and 401 Cr.P.C. against the docket order, dated 20.10.2018 in CrI.M.P.No.3238 of 2018 in C.C.No.91 of 2017 on the file of the Metropolitan Sessions Judge, Cyberabad, Ranga Reddy District at L.B. Nagar.

2. The revision petitioner is A3. One Mr.Sadhajan Prasad, filed a complaint on 19.05.2015 before the Chaitanyapuri Police Station and the same was registered as F.I.R.No.312 of 2015 for the offences punishable under Sections 420 and 406 IPC and 5 of A.P. Protection of Depositors of Financial Establishments Act, 1999. The police after completion of investigation, filed charge sheet before the trial Court and the same was numbered as C.C.No.91 of 2017 by the I Addl. District & Sessions Judge, Ranga Reddy District. The matter was coming up before the learned Sessions Judge and it was posted from time to time i.e., from 08.01.2018 to 15.06.2018. On 15.06.2018, when the matter was called for hearing, learned Sessions Judge issued N.B.Ws. against the petitioner-A3 for his non-appearance and posted the mater on 28.07.2018.

3. It is the case of the petitioner that he was not aware of the proceedings initiated against him by the de facto complainant and hence, he could not present before the Court. It is the further case of the petitioner that he was aged about 80 years and suffering from paralytic and brain affected disease, and therefore, he filed a petition for re-call of N.B.Ws. in C.C.No.91 of 2017 and the said petition was dismissed by the above docket order.

4. Heard the learned counsel for the petitioner, the learned Public Prosecutor representing the State and perused the material on record.

5. Learned counsel for the petitioner submits that the petitioner has filed a petition under Section 70 (2) Cr.P.C. for re-calling of N.B.Ws and the same was dismissed as he did not appear before the Court.

6. Learned Public Prosecutor submits that the appearance of the petitioner is not required before the trial Court for disposal of Section 70 (2) Cr.P.C. as per the settled law.

7. At the outset, the docket order passed by the learned Sessions Judge is a one line order, which reads thus:

“Heard. Petition is dismissed as accused did not appear.”

It is obvious that the petitioner has filed a petition under Section 70 (2) Cr.P.C. and the trial Court is expected to pass a detailed speaking order while dismissing the petition. The order passed by the trial Court is cryptic order and the appearance of the accused may not be required in all cases as rightly pointed by the learned Public Prosecutor, for disposal of a petition filed under Section 70 (2) Cr.P.C. Therefore, the order passed by the trial Court is not in accordance with law and it is liable to be set aside.

8. Accordingly, the Criminal Revision Case is allowed setting aside the docket order, dated 20.10.2018 in CrI.M.P.No.3238 of 2018 in C.C.No.91 of 2017 on the file of the Metropolitan Sessions Judge, Cyberabad, Ranga Reddy District at L.B. Nagar. However, the petitioner is directed to move an application before the trial Court for re-calling of

N.B.Ws. and the trial Court shall consider the same on the same day and pass appropriate orders in accordance with law. Miscellaneous petitions, if any pending in this revision shall stand closed.

GUDISEVA SHYAM PRASAD, J

DATED: 06-11-2018

Hsd

