

HON' BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CrI.R.C.No. 3405 of 2018

JUDGMENT:-

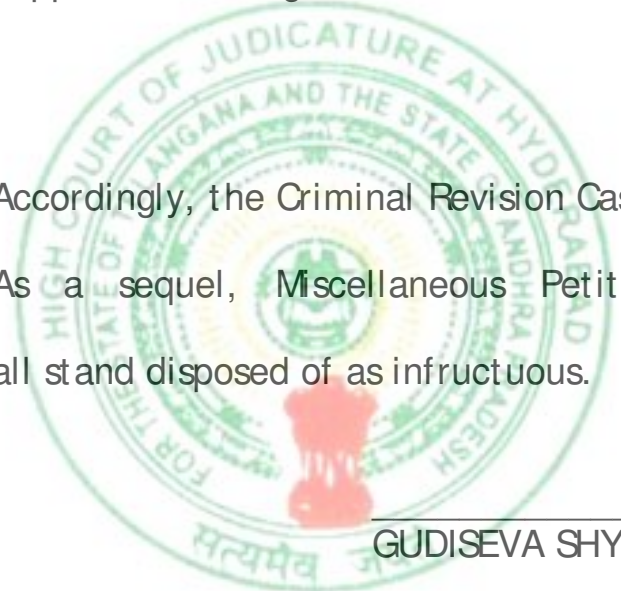
This Criminal Revision Case arises out of the order dated 15.11.2018 in CrI.M.P.No. 2876 of 2018 in CrI.S.R.No. 10879 of 2018 passed by the Metropolitan Sessions Judge, Hyderabad seeking to set aside the order of dismissing the petition for condoning the delay of 30 days in preferring the appeal against the judgment of II Special Magistrate, Hyderabad.

2) Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing on behalf of the 1<sup>st</sup> respondent – State and perused the material placed on record..

3) There is no need to issue notice to the 2<sup>nd</sup> respondent since the petition is only in respect of condoning the delay of 30 days in filing the appeal against the judgment. The order of the trial Court shows that as the petitioner has failed to file the appeal in time and no supporting material was filed to condone the delay, the delay petition was dismissed. However, the order of the trial Court reveals that there was an averment to the effect that the petitioner was sick and could not file the appeal. The delay was only 30 days in preferring the appeal against the

judgment. The record is consisting of the medical certificate issued by the Civil Surgeon, Osmania General Hospital, Hyderabad stating that the petitioner was entitled to medical leave from 25.06.2018 to 20.08.2018. In spite of filing the said certificate, the trial Court has dismissed the application for condoning the delay. Hence, the order passed by the trial Court is set aside. The petitioner is directed to file a petition before the trial Court for recalling N.B.W issued against him, and on such application being filed, the trial Court shall recall the N.B.W.

- 4) Accordingly, the Criminal Revision Case is allowed.  
As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.



GUDISEVA SHYAM PRASAD, J

14.12.2018

**Note: Furnish copy by Monday**

**b/o**

**bcj**