

THE HON'BLE JUSTICE G.SRI DEVI

CRIMINAL REVISION CASE No.1203 of 2019

ORDER:

This Criminal Revision Case, under Sections 397 and 401 of Code of Criminal Procedure, 1973, is filed by the petitioner/accused aggrieved by the docket order, dated 01.10.2019, passed in CrI.A.No.155 of 2019 by the XV Additional District Judge-cum-XV Metropolitan Sessions Judge-cum-II Additional Family Judge, Kukatpally, Ranga Reddy District.

2. Heard the learned counsel for the petitioner, the learned Additional Public Prosecutor representing the 1st respondent-State and perused the record.

3. By Judgment, dated 31.01.2019, in C.C.No.209 of 2016 the learned Special Magistrate, Cyberabad at Kukatpally, found the petitioner guilty of the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, and accordingly, he was convicted and sentenced to undergo simple imprisonment for a period of one year and to pay an amount of Rs.4,50,000/- to the complainant towards compensation under Section 357 (3) Cr.P.C., in default to suffer simple imprisonment for a period of six months. Aggrieved by the said judgment, the petitioner preferred an appeal in CrI.A.No.155 of 2019 on the file of XV Additional District Judge-cum-XV Metropolitan Sessions Judge-cum-II Additional Family Judge, Kukatpally, Ranga Reddy District, and the same is pending.

4. In the affidavit filed in support of the petition, it is stated that the aforesaid appeal came up for admission on 12.06.2019 and on that day the first appellate Court issued notice to the

complainant and posted the matter to 01.10.2019. It is stated that when the case was called on 01.10.2019, the petitioner attended the Court and Court got passover the matter and instructed the counsel to deposit the process. It is further stated that the counsel appearing for the petitioner informed the petitioner that he would deposit the process and asked the petitioner to left the Court. As such, the petitioner left the Court. It is further stated that in the afternoon session, when the case was called, the counsel appearing for the petitioner could not represent the case as he was held up in another Court and the first appellate Court dismissed the appeal. The impugned order reads as follows:

“Appellant absent. Process not deposited. No representation directions of court not complied with. Hence appeal is dismissed.”

5. Learned counsel for the petitioner would submit that non-compliance of order passed by the first appellate Court is neither intentional nor wanton and it was only due to the counsel appearing for the petitioner could not attend the Court when the case was called. He further submitted that if the appeal is not restored to its file, the petitioner will be put to irreparable loss and he will lose the opportunity to contest the case, in which there are merits in his favour and hence, he prays to set aside the impugned order.

6. Having regard to the submissions made by learned counsel for the petitioner, non-deposit of the process by the petitioner is not shown to be willful or wanton. Therefore, the impugned order, dated 01.10.2019 passed by the Court below is liable to be set aside.

7. Accordingly, the Criminal Revision Case is allowed setting aside the docket order, dated 01.10.2019, in CrI.A.No.155 of 2019 passed by the XV Additional District Judge-cum-XV Metropolitan Sessions Judge-cum-II Additional Family Judge, Kukatpally, Ranga Reddy District, and the appeal is restored to its file. The petitioner is directed to appear before the Court below within a period of two (2) weeks from the date of receipt of a copy of this order and deposit the process fee as directed by the Court below.

Miscellaneous petitions, if any, pending in this criminal revision case shall stand closed.

JUSTICE G.SRI DEVI

25th October, 2019

Note:

Issue C.C in one week
(B/o)
YVL

THE HON'BLE JUSTICE G.SRI DEVI



CRIMINAL REVISION CASE No.1203 of 2019

Date:25.10.2019

YVL