

THE HON' BLE JUSTICE G. SRI DEVI
CRIMINAL REVISION CASE No.163 OF 2020

ORDER:-

1. The present Criminal Revision Case is filed under Sections 397 and 401 Cr.P.C. seeking to set aside the order dated 21.01.2020 passed by the learned III Additional Sessions Judge, Karimnagar, in CrI.M.P.No.10 of 2020 in Criminal Appeal No.24 of 2020, whereby the petition filed by the petitioner seeking to suspend the sentence imposed on him by the learned Judicial First Class Magistrate, Husnabad, vide judgment dated 17.12.2019 in C.C.No.127 of 2015 till disposal of the appeal.
2. The facts of the case shorn off unnecessary details are that the trial Court found the petitioner guilty of the offence punishable under Section 138 of the Negotiable Instruments Act and convicted him for the same and sentenced him to undergo simple imprisonment for a period of three months and also to pay a fine of Rs.3,80,000/-, in default to suffer simple imprisonment for a period of three months.
3. Learned counsel for the petitioner submitted that without properly verifying the facts, the appellate Court dismissed the aforesaid petition on erroneous grounds; that the appellate Court failed to note that the petitioner has already filed CrI.A.No.24 of 2020 along with petition seeking suspension of sentence; that the said Criminal Appeal and the petition were filed well before the time specified by the trial Court, i.e., 17.01.2020 but the said petition came up for hearing on 21.01.2020 and therefore, no fault can be attributed to the petitioner; and that the appellate Court simply relied on the fact that non-bailable warrant was issued against the petitioner by the trial Court and dismissed the suspension petition by the impugned order. Hence, the learned counsel prayed to set aside the impugned order.

4. Heard learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent State. Perused the material on record.

5. From a perusal of the record, it is evident that the petitioner filed the aforesaid petition on 13.01.2020 seeking suspension of sentence imposed by the trial Court along with the Criminal Appeal. However, the said petition came up for hearing before the appellate Court on 21.01.2020. The appellate Court dismissed the said petition on the ground that the petitioner was not diligent in filing the appeal. The appellate Court failed to see whether the appeal along with the suspension petition was filed within the limitation period or not. The appellate Court without application of mind dismissed the aforesaid petition which cannot be sustained and the same is liable to be set aside.

6. Accordingly, the Criminal Revision Case is allowed setting aside the order dated 21.01.2020 passed by the learned III Additional Sessions Judge, Karimnagar, in CrI.M.P.No.10 of 2020 in Criminal Appeal No.24 of 2020. The petitioner is directed to surrender before the learned III Additional Sessions Judge, Karimnagar, on or before 17.02.2020, upon which, he shall be released on bail on his executing a personal bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties for the like sum each to his satisfaction.

7. Consequently, miscellaneous petitions, if any, pending shall stand closed.

10th February, 2020
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JUSTICE G. SRI DEVI