

THE HON'BLE JUSTICE G.SRI DEVI

CRIMINAL REVISION CASE No.1415 of 2019

ORDER:

This Criminal Revision Case is filed aggrieved by the order, dated 20.9.2019, passed by the learned XIV Additional District and Sessions Judge, Ranga Reddy District at L.B.Nagar in Criminal Appeal No.632 of 2019.

2. Heard learned counsel for the petitioner/accused, learned Additional Public Prosecutor appearing for respondent No.2-State and perused the impugned order and other material available on record.

3. Learned counsel for the petitioner mainly contended that since the petitioner was arrested in execution of conviction warrant issued by the trial Court, he is in jail as on the date of the order of suspension passed by the lower appellate court and that even as of now, he is in jail and as such, he could not appear before the Court. Hence, the learned counsel prayed to set aside the impugned order.

4. The petitioner was convicted and sentenced to suffer simple imprisonment for a period of two years and to pay a fine of Rs.30,00,000/- (Rupees Thirty lakhs only) for the offence under Section 138 of the Negotiable Instruments Act, vide judgment dated 25.3.2019, passed by the learned VIII Special Magistrate, L.B.Nagar, Hasthinapur, Ranga Reddy District, in C.C.No.182 of 2017. Challenging the said judgment, the petitioner herein-accused filed Criminal Appeal No.632 of 2019 on the file of the learned

XIV Additional District and Sessions Judge, Ranga Reddy District at L.B.Nagar. The lower appellate Court in CrI.M.P.No.120 of 2019 *vide* order dated 19.8.2019 was pleased to suspend the sentence passed by the trial Court pending disposal of the Criminal Appeal on condition that the petitioner shall deposit 20% of the cheque amount within a period of 60 days under intimation to the complainant. Subsequently, Criminal Appeal No.632 of 2019 was dismissed for default on 20.9.2019 on the ground that the revision petitioner herein/accused and his counsel were absent during call work and the process was not paid by the petitioner/accused for issuance of notice to the respondent/complainant.

5. During the pendency of the present Criminal Revision Case, this Court by order, dated 11.12.2019, directed the Jail authorities of Cherlapally Jail to furnish a report showing the details regarding the period of detention of the revision petitioner at Cherlapally jail in connection with C.C.No.182 of 2017 on the file of the learned VIII Special Magistrate, Hasthinapuram, Ranga Reddy District. Pursuant to the said direction, the Superintendent, Central Prison, Cherlapally, addressed a letter to this Court stating that the petitioner was lodged in Cherlapally jail on 24.7.2019 to undergo simple imprisonment imposed on him by the trial Court in C.C.No.182 of 2017 and as on date, he is still undergoing sentence in Cherlapally jail. Thus, it is evident that when the lower appellate Court has taken up the aforesaid Criminal Appeal on 20.9.2019, the petitioner was absent before the said Court as he was lodged in Cherlapally

jail. Since the reasons mentioned by the revision petitioner in this Revision Case for his absence before the lower appellate Court on 20.9.2019 are found to be true and correct, in the interest of justice, I deem it fit to set aside the impugned order.

6. Accordingly, the Criminal Revision Case is allowed and the impugned order, order, dated 20.9.2019, passed by the learned XIV Additional District and Sessions Judge, Ranga Reddy District at L.B.Nagar in Criminal Appeal No.632 of 2019, is set aside and the said Criminal Appeal is restored to file. The revision petitioner is directed to be enlarged on bail on his furnishing a personal bond to the tune of Rs.15,000/- (Rupees Fifteen thousand only) with two sureties to the like amount each to the satisfaction of the learned XIV Additional District and Sessions Judge, Ranga Reddy District at L.B.Nagar. After the revision petitioner is released, he shall appear before the Court concerned on 03.02.2020 positively and shall comply with the condition imposed by the lower appellate Court in its order dated 19.8.2019 in CrI.M.P.No.120 of 2019 in CrI.A.No.632 of 2019.

7. Miscellaneous petitions, if any pending in this Criminal Revision Case, shall stand dismissed.

22nd January, 2020
dr

JUSTICE G.SRI DEVI