

THE HON'BLE SMT. JUSTICE G. ANUPAMA CHAKRAVARTHY

CRIMINAL APPEAL No.523 of 2019

JUDGMENT :

On perusal of the record it is evident that on 13.10.2022, the appeal was adjourned at the request of the learned counsel for the appellant.

2. On 20.10.2022, as there was no representation for the appellant, it was posted to 14.11.2022.

3. On 14.11.2022, there was no representation for the appellant. Record further reveals that notice was not served on respondent Nos.1 and 2 and the Court has directed to issue fresh notice to respondent Nos.1 and 2 and also permitted the learned counsel for the appellant to take out personal notice on respondent Nos.1 and 2 and to file proof of service by the next date of listing i.e.,02.12.2022.

4. In spite of direction to post the matter on 02.12.2022, it was listed on 07.12.2022 and on the said day also there was no representation for the appellant and no notice was taken on respondent Nos.1 and 2. Therefore, this Court was constrained to direct the counsel for the appellant to take out fresh personal notice on respondent Nos.1 and 2 and it was posted to 28.12.2022.

5. On 28.12.2022, as there was no representation for the appellant and personal notice was not taken on respondent Nos.1 and 2, the matter was directed to be listed under the caption “for dismissal” on 06.01.2023.

6. On 06.01.2023, as there was no representation for the appellant when the matter was called twice, it was posted under the same caption for today.

7. Though the matter is coming up under the caption ‘for dismissal’, today also there is no representation for the appellant either in the forenoon or in the afternoon and it appears that the appellant is not evincing any interest in prosecuting the case. Admittedly, the appeal is against the acquittal for the offence punishable under Section 138 of Negotiable Instruments Act. As the offence is *quasi judicial* and the appellant is not evincing any interest in prosecuting the matter, the appeal is liable to be dismissed for default.

8. Therefore, the Criminal Appeal is dismissed for default and for non-prosecution.

Pending miscellaneous applications, if any, shall stand closed.

G. ANUPAMA CHAKRAVARTHY, J.

Date: 19.01.2023

Smk