

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**THURSDAY, THE TWENTY EIGHTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE SRI JUSTICE E.V. VENUGOPAL

CRIMINAL REVISION CASE NO: 391 OF 2024

Criminal Revision case filed under Section 397 & 401 of Cr.P.C aggrieved by the order dt.01.04.2015 passed in Crl.M.P.No.684 and 685 of 2015 in New C.C.No.179 of 2013 on the file of XXV Special Magistrate at Hyderabad,

Between:

Mohd. Jahangir Ali @ Saleem, S/o Md. Abdul Kareem, Aged about. 40 Yrs, Occ. Business, D.Opt, Govt. Qualified Optometrist, Loans Recovery Agent, 20-4-199/1 34 to 37, New Shopping Complex, Shah Ali Banda, Hyderabad-500 002

...Petitioner/Accused

AND

1. Mr. Syed Mohiuddin @ Mushtak Bhai, S/o Late Sri Syed Abbas, Aged 53 Yrs, Occ. Ex.Servicernan/Business R/o 9-4-133/2/8/A/1, Jhansi Nagar Colony, Tolichowki, Hyderabad-500 008
2. The State of Telangana., rep. by its Public Prosecutor, High Court of Judicature at Hyderabad For the State of Telangana and the State of Andhra Pradesh

...Respondents/Complainant

I.A. NO: 1 OF 2015(CRLRCMP. NO: 3037 OF 2015 in 31965 of 2015)

Petition under Section 5 of Limitation Act praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to **condone** the delay of 53 days in filing the above Criminal Revision Case.

I.A. NO: 2 OF 2015(CRLRCMP. NO: 31966 OF 2015 in 391 of 2024)

Petition under Section 482 Cr.P.C praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to **stay** of all further proceedings CC.No.179 of 2013 on the file of XXV Special Magistrate at Hyderabad, pending disposal of the above Criminal Revision Case.

Counsel for the Petitioner: SRI. S. MALLESWARA RAO, Advocate

**Counsel for the Respondent No.2: SRI VIZARATH ALI,
ASSISTANT PUBLIC PROSECUTOR**

Counsel for the Respondent No.1: NONE APPEARED

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE E. V. VENUGOPAL**CRIMINAL REVISION CASE No.391 OF 2024****ORDER:**

This criminal revision case is filed against the order dated 01.04.2015 passed in CrI.M.P.Nos.684 and 685 of 2015 in New C.C.No.179 of 2013 on the file of XXV Special Magistrate at Hyderabad.

2. Heard Mr.Rakesh, learned counsel representing on behalf of learned counsel for the petitioner and Mr.Vizarath Ali, learned Assistant Public Prosecutor. Perused the record.

3. The facts of the case are that the petitioner filed a petition under section 311 Cr.P.C. to reopen and recall the PW1 in CrI.M.P.Nos. 684 and 685 of 2015, New C.C.No.179 of 2013 on the file of XXV Special Magistrate, Hyderabad for further cross examination and the learned judge passed a conditional order to pay cost of Rs.1,000/- by the accused to the complainant. But the same was not complied with. Further the learned counsel for the accused did not attend the court to do cross examination of PW1 as per CrI.M.P.No.684 of 2015 and 685 of 2015 and therefore dismissed the CrI.M.P.'s for default.

4. Learned counsel for the petitioner submitted that the learned Magistrate ought to have given an opportunity to the petitioner to cross examine PW1 in view of the presumption under section 138 of N.I.Act, which operates in favour of the complainant. Learned Magistrate ought to have seen that the petitioner has to rebut the presumption under section 138 of N.I.Act by way of cross examining P.W.1 and requested to allow the criminal revision case.

5. Mr. Vizarath Ali, Learned Assistant Public Prosecutor would submit that the petitioner can redress his grievance in the trial court itself and the interference of this Court is not warranted and seeks to dismiss the case.

6. Having regard to the submissions made by learned counsel for the petitioner and learned Assistant Public Prosecutor, this court is of the view that the petitioner can redress his grievance in the trial court itself, as the case is not finally disposed of before the trial court and therefore, this Court is inclined to dismiss the criminal revision case.

7. Accordingly, this criminal revision case is dismissed.

Miscellaneous Petitions, pending if any, shall stand closed.

Sd/- M. RAMANA KRISHNA
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The XXV Special Magistrate at Hyderabad.
2. Two to the Public Prosecutor, High Court of Judicature at Hyderabad For the State of Telangana and the State of Andhra Pradesh (OUT)
3. One CC to SRI S. MALLESWRA RAO, Advocate [OPUC]
4. Two CD Copies

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HIGH COURT

DATED:28/12/2023

ORDER

CRLRC.No.391 of 2024



THE CRIMINAL REVISION CASE IS DISMISSED

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