

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

WEDNESDAY, THE THIRD DAY OF JULY
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE E.V. VENUGOPAL

CRIMINAL APPEAL NO: 324 OF 2018

Appeal filed under Section 378 of Cr.P.C., aggrieved by the Order Dated 06.11.2014 passed in C.C No. 66 of 2014 on the file of the IV Special Magistrate, L.B Nagar, Ranga Reddy District at Hasthinapuram.

Between:

Gaddam Mahender Reddy, S/o. Narasimha Reddy, Age: 37 years, Occ-
Business, R/o. H.No. 10-149, Nadergul Village, Balapur Mandal, Ranga
Reddy District

...Appellant/Defacto - Complainant

AND

1. The State of Telangana, through Public Prosecutor, High Court at Hyderabad.

...Respondent

2. S. Bal Raj Yadav, S/o. Gattaiah, Age: 42 years, Occ: Business, R/o. H.No. 12-
11-254/1, 1st Floor, Beside Sridevi Nursing Home, Warasiguda,
Secunderabad

...Respondent/Accused

Counsel for the Appellant : Sri K. Venumadhav

Counsel for Respondent No.1 : Sri K. Ramakotaiah,
Assistant Public Prosecutor

Counsel for Respondent No.2 : None appeared

The Court delivered the following: JUDGMENT

THE HONOURABLE SRI JUSTICE E. V. VENUGOPAL

CRIMINAL APPEAL NO.324 OF 2018

JUDGMENT:

This Criminal Appeal is filed being aggrieved by the docket order, dated 06.11.2014, passed by the learned IV Special Magistrate, L.B.Nagar, Ranga Reddy District at Hasthinapuram, wherein the complaint filed by the appellant/complainant under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the Act, 1881'), which was taken cognizance as C.C.No.66 of 2014 was dismissed.

2. The brief facts of the case are that respondent No.2/accused and the appellant, along with another, entered into an Agreement of Sale on 26.07.2013 under the Mediation of one Sri C. Krishna Goud with regard to plot Nos.14, 15, 20, 21, 22 and 25 totally admeasuring 879 Sq. Yds. in Sy.Nos.739/part and 740/part situated at Nadergul Village, Saroornagar Mandal, under Badangpet Nagar Panchayath, Ranga Reddy District. Further, the appellant and respondent No.2 had entered into an Agreement of Sale on 26.07.2013 and respondent No.2 received a sum of Rs.5,00,000/- (Rupees five lakhs only) from the appellant as an advance towards part payment and the same was acknowledged through a receipt. Thereafter, the same was

cancelled with an assurance to return the said amount and accordingly, respondent No.2/accused had given a cheque for a sum of Rs.5,00,000/- in favour of the appellant and when the same was submitted by the appellant in his bank, it was returned dishonoured with an endorsement 'insufficient funds' through a memo dated 12.03.2014. Though notice was issued to respondent No.2, he has not turned up to pay the cheque amount. On that, the complainant filed a complaint in C.C.No.66 of 2014 on the file of the learned IV Special Magistrate, L.B.Nagar, Ranga Reddy District at Hasthinapuram. The case was posted on 06.11.2014 to proceed further in the matter but on the said date the appellant did not appear, as a result of which, the said complaint was dismissed acquitting respondent No.2/accused. Aggrieved by the same, this appeal is preferred.

3. Heard both sides and perused the record including the grounds of appeal.

4. The first and foremost contention of the learned counsel appearing for the appellant is that the appellant was suffering with incoherent speech and decreased memory and as a result, he could not appear before the trial Court when the complaint filed by him was posted for his appearance on 06.11.2014 and

thereby, the impugned order may be set aside. In support of his contention, learned counsel for the appellant has submitted a bunch of medical bills. A perusal of the said medical bills, which pertains to the year 2008, discloses that the appellant was suffering from incoherent speech and decreased memory. But, it is to be seen that the complaint was filed by the complainant in the year 2014 and the impugned order was passed on 06.11.2014 i.e., six years after the alleged detection of health issue of the appellant. The appellant has not placed any latest medical records especially pertaining to the year 2014 to establish that he is still suffering from the above said health issue due to which, he could not appear before the trial Court on the relevant date. Furthermore, the medical bills submitted by the appellant disclose that the appellant, who was admitted in Kamineni Hospital on 30.04.2008, was discharged on 03.05.2008 in a 'Haemodynamically Stable Condition' which clearly shows that the appellant was discharged in a good health condition.

5. Furthermore, it is not the case of the appellant that his counsel had any other issue in not representing the case on his behalf. Though it is the contention of the appellant that he could not contact his counsel due to his health issue, it is pertinent to note that once a case is handed over to the counsel, it is the

responsibility of the counsel to take care of the case in proper perspective. Though the case was posted on 06.11.2014 conditionally, neither the appellant nor his counsel had represented the case before the trial Court.

6. In view of the above facts and circumstances, this Court is of the considered view that the reasons assigned by the appellant for his non-appearance before the trial Court on 06.11.2014 does not appear to be genuine and true. The dispute between the parties pertains to the year 2013 and the complaint was filed in the year 2014 and dismissed in the same year. However, the complainant filed the appeal in the year 2018. Now, we are in the year 2024. Thus, the complainant could successfully drag the matter for eleven years from the date of dispute between the parties. It is appropriate to quote a famous legal maxim "*Vigilantibus Non Dormientibus Jura Subveniunt*" which means that the law assists those who are vigilant with their rights and not those who sleep thereupon and this maxim absolutely applies to the facts of the case on hand. It is not the case of the complainant that at the first instance itself his complaint was dismissed for default. The case was posted to 06.11.2014 and despite posting the matter conditionally for appearance of the complainant, he failed to comply with the

order of the trial Court. Thus, the impugned order passed by the trial Court is in proper perspective and thereby, I do not find any reason to interfere with the finding of the trial Court. The appeal is devoid of merits and is liable to be dismissed.

7. Accordingly, this Criminal Appeal is dismissed.

Miscellaneous applications pending, if any, shall stand dismissed.

Sd/- K. SAILESHI
DEPUTY REGISTRAR

//TRUE COPY//


SECTION OFFICER

To,

1. The IV Special Magistrate, L.B. Nagar, Ranga Reddy District at Hasthinapuram. (with records)
2. One CC to Sri K. Venumadhav, Advocate [OPUC]
3. Two CCs to the Public Prosecutor, High Court for the State of Telangana at Hyderabad. (OUT)
4. Two CD Copies

Njb/DI. 

HIGH COURT
DATED:03/07/2024

JUDGMENT
CRLA.No.324 of 2018



DISMISSING THE CRIMINAL APPEAL

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