APHC010491762010

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI

TUESDAY, THE 6th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE ALAPATI GIRIDHAR

CRIMINAL APPEAL NO: 307 OF 2010

Between:

G. RAM PRASAD, S/o. G. Vasudevaiah Business R/o. H.No. 51/1026 - M, L.I.C. Colony Kurnool

...Petitioner

AND

1. B THIPPAIAH S/o. B. Nagappa Binder Govt. Press, Kurnool R/o. H.No. 46/592, Budhwara Peta Kurnool

2. The State of A P, Rep. by the Public Prosecutor High Court of A.P., Hyderabad.

...Respondents

Counsel for the Petitioner: MURALI LINCOLN

Counsel for the Respondents: PUBLIC PROSECUTOR (AP)

The Court made the following JUDGMENT:

1. The Criminal Appeal is filed by the Complainant aggrieved by the order of acquittal, dismissing the complaint filed u/s.138 of N.I Act for non-prosecution under Section 256 Cr.P.C (Section 279 of BNSS) by the Judicial Magistrate of First Class, Kurnool dated 28.07.2008 in C.C.No.145 of 2007 (Old C.C.No.61 of 2006).

2. The Appellant filed a complaint under Section 138 of Negotiable Instruments Act against the Respondent/Accused in the year 2005 and when the complainant was examined as P.W.1 and case was posted for cross-examination. The Court below passed the Orders dated 17.07.2008 & 28.07.2007 as under;:

Order dated 17.07.2008:

> "Accused present. Complainant absent. No representation, Call on 28.7.08. Complainant shall appear on that day otherwise complaint will be dismissed.

Order dated 28-07-2008:

> “Complainant absent inspite of conditional order. Accused present. Hence complaint is dismissed for default. Accused is acquitted u/s 256 Cr.P.C.”

3. Heard the learned counsel for Appellant/Complainant. None appeared for the Accused.

4. It is submitted that it is the mistake of Advocate's clerk in noting date as 28.09.2008 instead of 28.07.2008, therefore, absence was not intentional and that the Appellant was suffering with ill-health on 17.07.2008. But the Appellant even did not mention the nature of ill-health or file any medical certificate for alleged ill-health on 17.07.2008.

5. The material on record reveals that the case is pending for about 2 years before the Trial Court, he did not attend before the Court despite conditional order. The Complainant could not satisfy with any justifiable

ground for his absence on the dates as stated supra. The Complainant could not demonstrate any grounds to interfere with the order of the Trial Court.

6. In the result, the Criminal Appeal is dismissed.

As a sequel, miscellaneous petitions if any pending shall stand closed.

JUSTICE ALAPATI GIRIDHAR

Dt: 06.10.2026
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