

HON'BLE SRI JUSTICE A.GOPAL REDDY

CRIMINAL PETITION No.696 of 2005

Between:

Suradha Neeraja

... Petitioner

And

V.Anantharao and another

... Respondents

This Court made the following:

HON'BLE SRI JUSTICE A.GOPAL REDDY

CRIMINAL PETITION No.696 OF 2005

ORDER:-

Petitioner/complainant filed this petition under Section 482 of Cr.P.C. for quashing the order, dated 22.09.2004 passed by the Metropolitan Sessions Judge, Visakhapatnam dismissing the revision in D.D.R.No.1742 of 2004.

The petitioner filed the above C.C. for the offences punishable under Sections 138 of N.I.Act and also under Sections 415, 416, 418 and 420 of IPC r/w section 315 of Cr.P.C. The VII Metropolitan Magistrate at Gajuwaka took cognizance of the case on file under Section 138 of N.I.Act and dismissed the same on 17.08.2004, holding as follows:

“The case was called on for hearing today i.e., for filing of the chief affidavit by the complainant, to which it had been posted.

The complainant not being present either in person or by pleader. No representation waited till 4.45 P.M. Costs of Rs.100/- has not paid by the complainant as directed on 04.08.2004. Chief affidavit not filed by the complainant.

Hence Complaint is dismissed. Accused is acquitted under Section 256 of Criminal Procedure Code.”

Questioning the same, the petitioner filed revision in D.D.R.NO.1742 of 2004, where the office raised an objection about the maintainability of the appeal and when the case is called, the learned Metropolitan Sessions Judge, Visakhapatnam by following the judgment of this Court in ***P.Gunavatha Rao v. M.Mohan Raju***^[1] upheld the office objections that the revision is not maintainable and accordingly, rejected the revision.

Questioning the same, the present petition is filed contending that this Court in ***P.Gunavanta Rao's*** case (1 supra) converted the petition under Section 482 Cr.P.C. to that of an appeal and allowed the same. Therefore, the petition may be converted as an appeal against the acquittal order, as did by this Court in the above judgment.

This Court in the above judgment categorically observed that the High Court is conferred with inherent powers under Section 482 Cr.P.C., to set right the miscarriage that has been caused. But, of course, it does not mean that the inherent powers can be invoked in each and every case as a matter of routine.

It is evident from the dismissal order of the complainant, that on the previous date, the matter was adjourned for enabling the petitioner to file a chief affidavit on payment of costs of Rs.100/-. In spite of the same, he was not present on the date when the case was taken up for hearing and paid the costs. In that view of the matter, the trial Court dismissed the complaint acquitting the accused. In view of the same, this Court is not inclined to exercise inherent jurisdiction to convert the petition filed under Section 482 Cr.P.C. to that of an appeal. No infirmity is discernable with the order passed by the Sessions Judge in rejecting the revision, warranting interference by this Court.

Accordingly, the Criminal Petition is dismissed. However, the petitioner is at liberty to file an appeal, if so advised, and can adjudicate his claim by filing an application to condone the delay.

30th July 2010
Imv

A.GOPAL REDDY, J

[\[1\]](#) 2002 (1) ALT (CrI.) 264 (A.P.)