

**THE HON'BLE SRI JUSTICE RAJA ELANGO**

**Crl.A.No.179 of 2016**

**JUDGMENT**

The present criminal appeal is directed against the docket order dated 21.07.2015 passed in C.C.No.231 of 2015 by the learned Special Magistrate Court No.1, Kukatpally at Miyapur.

2. Appellant herein filed a complaint against the first respondent and the same was taken on file as C.C.No.231 of 2015 for the offence punishable under Section 138 of Negotiable Instruments Act, 1881. On 21.07.2015, due to absence of the appellant and his counsel, the trial Court dismissed the complaint for default. Aggrieved by the same, the present appeal is filed.

3. Heard and perused the material on record.

4. Considering the facts and circumstances of the case and as it is represented that the absence of the appellant is neither willful nor wanton and also in view of the nature of offence, this Court is of the view that an opportunity should be given to the appellant to proceed with trial of the case. In view of the same, the docket order dated 21.07.2015 passed in C.C.No.231 of 2015 is hereby set aside and the trial Court is directed to restore the said C.C. to its file and dispose of the same in accordance with law after affording an opportunity to both the parties.

5. Accordingly, the Criminal Appeal is disposed of. Miscellaneous Petitions, if any, pending in this appeal shall stand closed.

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**JUSTICE RAJA ELANGO**

21<sup>st</sup> January, 2016  
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