

HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL APPEAL No.658 of 2016

JUDGMENT:

This appeal is filed by the complainant challenging the order dated 6.8.2015 passed by the Special Judge for Economic Offences-cum-VIII Additional Metropolitan Sessions Judge, Hyderabad, in C.C.No.102 of 2013.

The appellant filed a complaint in the above C.C. against the 1st respondent for the offence under Section 630 of the Companies Act, 1956 and 409 IPC. In the present case, NBWs were issued against the accused and the same are pending execution. The complainant has not deposited the process fee. On 6.8.2015, the learned Special Judge passed the following order dismissing the above C.C:

“Complainant absent. No representation till 4 p.m. Process not paid in spite of several adjournments given, for issuing NBWs against the accused. No purpose would be served by adjourning the case further as complainant failed to pay process. Complainant is not evincing any interest in prosecuting the case. It is seen from previous docket orders that the complainant is not attending for the last several adjournments. No purpose would be served by keeping this case pending on the file of this Court. Hence, the complaint is dismissed under Section 256 Cr.P.C.”

Aggrieved by the above order, the appellant-complainant filed this appeal.

Heard and perused the material available on record.

Learned Counsel for the appellant submitted that NBWs are pending against the respondent No.1 and that the appellant has not deposited the process with an intention to file a petition on the next date of hearing, to seek re-issuance of order of proclamation as NBWs cannot be executed at USA, where the accused is residing and that the complainant wrongly noted the date of hearing as 12.8.2015

instead of 6.8.2015 and therefore, he did not appear before the Special Court and that his absence is not willful and wanton.

Considering the facts and circumstances of the case and the submissions made by the learned Counsel for the appellant, this Court is inclined to restore the above C.C.

Accordingly, the Criminal Appeal is allowed setting aside the 6.8.2015 passed by the Special Judge for Economic Offences-cum-VIII Additional Metropolitan Sessions Judge, Hyderabad, in C.C.No.102 of 2013. Consequently, C.C.No.102 of 2013 is restored and the learned Special Judge is directed to proceed in accordance with law. Miscellaneous petitions pending, if any in this appeal, shall stand closed.

RAJA ELANGO, J

26th July 2016

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HONOURABLE SRI JUSTICE RAJA ELANGO

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