

SMT JUSTICE T. RAJANI

CRIMINAL APPEAL No.11 of 2018

ORDER:

This Criminal Appeal is filed, under Section 378 of the Code of Criminal Procedure, 1973, questioning the dismissal order, dated 23.10.2017, passed by the II Special Magistrate at Hyderabad, in C.C.No.467 of 2017.

2. Heard the counsel for the appellant and the Public prosecutor.

3. The counsel for the appellant submits that the lower court dismissed the complaint, for default of non-payment of the process. He submits that no time was given for paying the process and that the appellant is very much interested in prosecuting the case.

4. This court opines that it would be beneficial for any case to be decided on merits. It appears that the matter was dismissed, at the threshold itself, for non-payment of process. Hence, it would be better to render an opportunity to the appellant to prosecute the case and get the same decided on merits.

5. Hence, the Criminal Appeal is allowed setting aside the order, dated 23.10.2017, passed by the II Special Magistrate at Hyderabad, in C.C.No.467 of 2017 and the matter is remitted back to the trial court. However, the appellant is directed to comply with the order of the lower court with regard to the payment of process by the date given by the lower court after

the lower court receives the case file, failing which the impugned order shall stand confirmed.

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

January 18, 2018
LMV

T. RAJANI, J

