APHC010399882008

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3560]
(Special Original Jurisdiction)

WEDNESDAY, THE 9th DAY OF SEPTEMBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

CRIMINAL REVISION CASE NO: 1262/2008

Between:

1. GUNDU SAMBASIVA RAO,, S/O VENKATESWARA RAO, R/O D.NO. 61-3/4-20, GEETHA NAGAR, VIJAYAWADA,

...PETITIONER

AND

1. THE STATE OF AP REP BY ITS PP HYD ANOTHER, REP. BY ITS PUBLIC PROSECUTOR, HIGH COURT OF A.P., AT HYDERABAD.
2. DANTALA ANAJAIAH, S/O GOPAIAH @ GOPALA RAO, R/O UPPALAPADU VILLAGE, PEDAKAKANI MANDAL, GUNTUR DISTRICT.

...RESPONDENT(S):

Revision filed under Section 397/401 of CrPC praying that in the circumstances stated in the affidavit filed in support of the CriminalRevisionCase, the High Court may be pleased toto prefer this Crl.R.C., aggrieved by the Judgment dt. 20-08-2008 passed in Crl.A.No. 153 of 2006 on the file of the Spl.Sessions Judge -cum- IV Addl. Sessions Judge, Guntur as Confirming in CC.No. 103 of 2005 on the file of the VI Addl. Munisff Magistrate, Guntur, dt. 13-3-2006 that the Sentence and convicted U/s 138 of N.I.Act to undergo S.I., for three months and pay a fine of Rs. 500/- I/d SI for 1th days.

IA NO: 1 OF 2008(CRLRCMP 1702 OF 2008

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to release the petitioner on bail by suspending the sentence of imprisonment

passed in CC.No. 103 of 2005 on the file of the VI Addl. Munsiff Magistrate, Guntur, dt. 13-03-2006 as confirmed in Crl.A.No. 153 of 2006 on the file of the Spl. Sessions Judge, -cum- IV Addl. Sessions Judge, Guntur, dt. 20-08-2008, pending disposal of the above Crl.R.C., before this Hon'ble Court.

Counsel for the Petitioner:

1. CH S V SURAJ
2. LEGAL AID

Counsel for the Respondent(S):

1. PUBLIC PROSECUTOR

The Court made the following:

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

CRIMINAL REVISION CASE No.1262 OF 2008

ORDER:

This instant Criminal Revision Case has been preferred against Judgment dated 20.08.2008, in Criminal Appeal No.153 of 2006, passed by Special Sessions Judge-cum-IV Additional Sessions Judge, Guntur, wherein and whereunder, he confirmed order of conviction of petitioner recorded by learned Magistrate under Section 138 of N.I. Act, in C.C.No.103 of 2005 by recording simple imprisonment for a period of three (03) months and to pay fine of Rs.500/- I.D.S.I. for 15 days. Against such order of conviction, the petitioner preferred an appeal, learned Appellate Court finding no merits has dismissed the appeal. Hence this criminal revision case is filed.

2. It appears from the prosecution that after filing of the present Criminal Revision Case, the petitioner was absent for quite a long period. Though the Criminal Revision Case was filed in the year 2008, the petitioner could not take necessary steps. Accordingly, this Court had to direct the Secretary, High Court Legal Services Authority, to appoint a learned Advocate to represent the petitioner. Consequently thereto, learned counsel appeared on behalf of the petitioner today.

3. Heard learned counsel appearing for both sides.

4. It appears that the 2nd respondent, being a complainant, filed the complaint before the learned Magistrate, which was registered as C.C.No.103 of 2005, with an allegation that the petitioner/accused borrowed an amount of

Rs.50,000/- from the 2nd respondent on 12.01.2004, towards his family expenses and had agreed to repay the same with interest at the rate of 24% per annum and also executed a promissory note to that effect. In spite of repeated demands, the amount was not repaid. Hence, the petitioner issued a cheque bearing No.655612 dated 12.02.2005, for an amount of Rs.50,000/- drawn on Canara Bank. The complainant presented the cheque through his banker for collection on 12.02.2005, but the cheque was returned on 17.02.2005 with an endorsement "Insufficient Funds". Consequently, the complainant filed a complaint under Sections 138 & 142 of the N.I. Act before the learned Trial Court.

5. During the trial, the petitioner himself deposed as PW.1 and another person was also examined as PW.2. The pro-note, cheque return memo from Canara Bank and State Bank of India, and copy of legal notice *impugned* cheque were marked. Though the petitioner was examined as DW.1, he failed to discharge the burden cast upon him relevant statutory presumption under the provision of Section 118-A of the N.I. Act.

6. Learned Trial Court, after scanning the evidence, found the petitioner to be guilty and accordingly, the order of conviction was recorded. Learned Appellate Court again scanned the evidence, both oral and documentary. It has been argued before the learned Appellate Court that the petitioner is a public servant, for which, instead of imposing punishment of imprisonment, some fine amount may be imposed. It appears that the punishment provided under Section 138 of the N.I. Act., is at least one year and, in this case, only

three (03) months imprisonment was recorded by the learned Magistrate. This is the minimum sentence of imprisonment. Being a public servant, the conviction in terms of either fine or imprisonment had a similar effect on his service record. At this juncture, I find no justification to interfere with the *impugned* orders passed by the learned Trial Court as well as the learned Appellate Court.

7. Accordingly, this instant Criminal Revision Case is dismissed as devoid of merit. The order of suspension of sentence passed by this Court during pendency of this Criminal Revision Case is hereby vacated. The petitioner is directed to appear before concerned jail authorities or learned trial Court to serve out the remaining portion of the sentence within a period of six (06) weeks from the date of passing of this order. Failing which, learned Trial Court shall issue necessary warrant of arrest against the petitioner to comply with the order.

8. Let a copy of the order be served upon learned trial Court for ready references.

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

JUSTICE SUBHENDU SAMANTA

Dated: 09.09.2026
CVD/ASN