

THE HON'BLE SRI JUSTICE M.S.K. JAISWAL

Crl.R.C.M.P. No. 2265 of 2014

and

Criminal Revision Case No. 804 of 2013

Judgment:

The Criminal Revision Case is filed by the petitioners/accused assailing the judgment, dated 25-03-2013, passed in Criminal Appeal No.965 of 2012 by the learned I Additional Metropolitan Sessions Judge, Hyderabad, confirming the conviction and sentence imposed on them by the learned I Special Magistrate, Nampally, Hyderabad, vide judgment dated 14.09.2012 in CC No. 83 of 2012 (Old CC No.716 of 2011) for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (for short 'NI Act').

2. Now on behalf of the second respondent-*de facto* complainant, its employee Sri Ch. Venkat Rao filed an affidavit in Crl.R.C.M.P. No.2265 of 2013 stating that second respondent Company and the revision petitioners/accused have agreed to settle the issue and as per the said settlement the petitioners/accused have paid an amount of Rs.2,00,000/- to the second respondent-*de facto* complainant towards full and final settlement and, in view of that, the second respondent-*de facto* complainant may be permitted to compound the offence and the petitioners/accused may be acquitted of the offence under Section 138 of the NI Act by setting aside the conviction and sentence imposed on them.

3. The petitioners/accused and the second respondent-*de facto* complainant as well as their counsel are present. The parties have filed a joint memo stating that they have voluntarily compromised the matter and the accused may be acquitted.

4. In **Damodar S. Prabhu v. Sayed Babalal H**, the Hon'ble Apex Court held that if

the application for compounding of the offence is made before the Sessions Court or a High Court in revision or appeal, such compounding may be allowed on the condition that the accused pays 15% of the cheque amount by way of costs.

5. With regard to imposition of costs, it is submitted that the petitioner/accused who was hitherto doing the business has to wind up his business in view of losses sustained by him and he is doing petty job and with great difficulty he mobilized the funds to pay the same to the second respondent-*de facto* complainant, therefore, a lenient view in the matter of imposing costs is prayed for.

6. Having regard to the facts and circumstances of the case, I feel that the ends of justice would be met if 5% of the settlement amount i.e., Rs.10,000/- (Rupees Ten Thousand) is directed to be paid by way of costs to the High Court Legal Services Committee, Hyderabad.

7. Since the accused have paid the amount of Rs.2,00,000/- towards full and final settlement, the second respondent-*de facto* complainant is permitted to compound the offence. Accordingly, the compromise is recorded and CrI.R.C.M.P. No. 2265 of 2014 is allowed compounding the offence against the petitioners/accused, subject to condition of the petitioners/accused paying costs of Rs.10,000/- (Rupees Ten Thousand only) to the High Court Legal Services Committee, Hyderabad.

8. Accordingly, the Criminal Revision Case is disposed of in terms of the compromise and the petitioners/accused are acquitted, under Section 320(8) Cr.P.C., by setting aside the conviction and sentence imposed on them by the Courts below for the offence punishable under Section 138 of the NI Act, however, subject to condition mentioned supra.

9. As a sequel thereto, the miscellaneous petitions, if any, pending in this Criminal Revision Case shall stand closed.

M.S.K. JAISWAL, J.

Date: 17.06.2015

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