

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRL.RC.M.P.No.3179 OF 2015

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CRIMINAL REVISION CASE No.1838 OF 2015

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ORDER:

This Criminal Petition is filed by the petitioner-accused, under Sections 397 and 401 Cr.P.C., challenging the judgment in Crl.A. No.21 of 2013, dated 31.08.2015, passed by the Metropolitan Sessions Judge, Vijayawada, Krishna District.

The case of the prosecution in brief is as follows:

The 1st respondent – complainant and the petitioner - accused are brothers. In the property settlement, the accused agreed to pay to Rs.1,75,000/- to the 1st respondent for the loss sustained by the de facto complainant for the partition of properties. Accordingly, the petitioner issued a cheque to the 1st respondent. When the said cheque was presented for collection, the same was dishonoured. Hence, the

1st respondent filed a private complaint before the IV Additional Chief Metropolitan Magistrate, Vijayawada, for the offence under Section 138 of the Negotiable Instruments Act (for short 'NI Act'). The learned trial Judge framed charge under Section 138 of the NI Act against the petitioner in CC No.366 of 2008. After considering the oral and documentary evidence and the material available on record, the trial Judge found the petitioner guilty of the offence punishable under Section 138 of the NI Act, convicted and sentenced him to undergo simple imprisonment for a period of six (6) months and to pay a fine of Rs.5,000/-, in default to suffer simple imprisonment for three (3) months vide judgment, dated 30.01.2013. Aggrieved by the conviction and sentence imposed by the trial Court, the petitioner – accused filed Crl.A. No.21 of 2013 before the Metropolitan Sessions Judge, Vijayawada and the learned Sessions Judge dismissed the said appeal, confirming the conviction and sentence recorded by the trial Court. Aggrieved by the same, the present revision is filed.

When this matter has come up for hearing, both the petitioner and the 1st respondent appeared before the Court and they filed CrI.M.P. No.3179 of 2015 along with separate affidavits of the petitioner and the 1st respondent seeking to record the compromise entered into by them. It is stated in the affidavit filed by the petitioner that at the intervention of the elders, the matter was settled out of Court and he paid the entire cheque amount i.e. Rs.1,75,000/- by way of cash to the 1st respondent and prayed to set aside the conviction and sentence recorded against him. The 1st respondent – de facto complainant stated in the affidavit that he received cash of Rs.1,75,000/- towards the cheque amount, and he has no objection for acquitting the petitioner by setting aside the conviction and sentence recorded against him.

In the light of the facts and circumstances involved in the present case and particularly in view of the settlement arrived at in the present case, this Court is of the view that as the parties to the dispute settled the issues amicably, it is a fit case wherein the conviction and sentence imposed by the trial Court, as confirmed by the appellate Court, on the appellant -accused can be set aside.

In the result, the CrI.M.P.No.3179 of 2015 is ordered and the Criminal Revision Case is allowed setting aside the conviction and sentence imposed by the IV Additional Chief Metropolitan Magistrate, Vijayawada in CC No.366 of 2008, vide judgment dated 30.01.2013, for the offence under Section 138 of the NI Act, as confirmed by the Metropolitan Sessions Judge, Vijayawada in CrI.A. No.21 of 2013, vide judgment, dated 31.08.2015. Consequently, the petitioner-accused is acquitted for the said charge. The fine amount, paid if any, shall be refunded to the petitioner. Bail bonds shall stand cancelled and the sureties are discharged. The miscellaneous petitions, pending if any, shall stand closed.

RAJA ELANGO, J

September 16, 2015

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