

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

CRL.R.C.M.P. No.3381 of 2015

&

CRL.R.C. No.1002 of 2011

ORDER:

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This Criminal Revision Case is directed against the judgment in CrI.A.No.169 of 2008, dated 07.04.2011 on the file of the VII Additional Sessions Judge, Kakinada, East-Godavari District by and under which, the conviction and sentence as imposed by the trial Court was confirmed.

2. By judgment dated 13.05.2008, the learned III Additional Judicial First Class Magistrate, Kakinada, in C.C.No.253/2006, convicted the petitioner/accused for the offence punishable under Section 138 of the Negotiable Instruments Act and sentenced him to suffer simple imprisonment for one month and to pay a sum of Rs.15,000/- to the complainant towards compensation under Section 357 of Cr.P.C.

3. The 2nd respondent/*de facto* complainant and his counsel are present. The petitioner/accused and his counsel are also present. Both the parties had submitted that they have entered into a compromise and settled the dispute. For this purpose, CrI.R.C.M.P.No.3381 of 2015 is filed with a prayer to record the compromise entered into by the parties. As to the payment of 15% of the cheque amount, as the accused has been convicted under the provisions of the Negotiable Instruments Act, as held by the Apex Court in ***Damodar S. Prabhu v. Sayed Babalal H,*** the learned counsel for the petitioner submits that his client is virtually in an impecunious condition, and with a great difficulty he is able to mobilize the funds, to

satisfy the respondent/complainant, and as a special case, the requirement as to payment of the amount to the High Court Legal Services Committee may be condoned.

4. In view of the settlement arrived at between the parties,
no purpose would be served in keeping the proceedings pending.
In that view of the matter, permission is accorded and the compromise is recorded.

5. Consequently, the judgment of the Appellate Court dated 07-04-2011 in CrI.A.No.169 of 2008 as well as the judgment of the trial Court dated 13.05.2008 in C.C.No.253 of 2006 are set aside and the petitioner/accused is acquitted of the offence for which he was found guilty and convicted. The bail bonds of the petitioner/accused shall stand cancelled. The fine amount, if any paid, shall be refunded to the petitioner/accused.

6. Accordingly, the CrI.RC.MP.No.3381/2015 and CrI.RC.No.1002/2011 are allowed.

The miscellaneous petitions pending, if any, shall also stand closed.

M.S.K. JAISWAL, J.

Dt.29-09-2015.

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