

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL PETITION No.2202 OF 2015

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ORDER:

The above Criminal Petition is filed by the petitioner-accused under Section 397 and 401 Cr.P.C., challenging the order, dated 28.09.2015, passed in CrI.M.P.SR No.1116 of 2015 in CrI.M.P. No.475 of 2015 in CrI.A.SR No.6420 of 2015 by the II Additional Metropolitan Sessions Judge, Cyberabad at L.B. Nagar.

Heard and perused the material available on record.

The case in brief is as follows:

The petitioner is the accused in CC No.36 of 2014 on the file of special magistrate Court No.III, Kukatpally at Miyapur, for the offence under Section 138 of the Negotiable Instruments Act (for short 'the Act'). Learned trial Judge convicted and sentenced him to undergo simple imprisonment for a period of six months and also sentenced to pay a sum of Rs.4,00,000/- to the complainant within one month from the date of that order. Thereafter, the petitioner preferred an appeal before the Metropolitan Sessions Judge, Cyberabad, with a delay of 369 days. He filed an application before the lower appellate Court to condone the said delay. Meanwhile, the matter was settled between the petitioner and the de facto complainant out of Court and a petition was filed before the lower appellate Court to refer the matter to the Lok Adalat. During the pendency of that petition, the petitioner was arrested on execution of warrant, and was sent to judicial custody. Immediately, a petition was filed seeking advancement of hearing of the matter. The said petition was returned by the lower appellate Court through the impugned order.

Learned counsel for the petitioner submitted that since the matter was settled out of Court and the petitioner paid the entire amount, the learned Judge ought to have advanced the appeal and set aside the sentence imposed against the petitioner.

The de facto complainant appeared before this Court. He filed an affidavit stating that the matter was settled out of Court and he has received the entire cheque amount therefore, he is not intending to proceed against the petitioner.

Considering the facts and circumstances of the case and also since the de facto complainant received the entire cheque amount, this Court is inclined to pass the following order:

The conviction and sentence of imprisonment and also the sentence of compensation, recorded against the petitioner in CC No.36 of 2014 vide judgment, dated 28.07.2014, for the offence under 138 of the Negotiable Instruments Act, are set aside. The petitioner is acquitted of the above offence. The petitioner shall be released forthwith, if not, required in any other crime.

Accordingly, the Criminal Revision Case is disposed of. Consequently, miscellaneous petitions pending, if any, shall stand closed.

RAJA ELANGO, J

October 06, 2015.

KTL