

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL REVISION CASE No.1403 OF 2004

ORDER:

This Criminal Revision Case, under Sections 397 and 401 of the Code of Criminal Procedure, 1973, is filed by the petitioner/accused challenging the judgment, dated 9.8.2004, in Criminal Appeal No.58 of 2002 on the file of the III Additional District and Sessions Judge, Fast Track Court, Ongole whereunder and whereby, the learned Sessions Judge dismissed the appeal filed by the petitioner against the judgment, dated 27.3.2002, in C.C.No.82 of 2001 on the file of the Special Judicial Magistrate of First Class for Excise, Ongole.

2. Respondent No.2 herein is the complainant and the petitioner herein is the accused. Originally, respondent No.2 filed a private complaint against the petitioner before the II Additional Munsif Magistrate, Ongole and the same was taken on file against the petitioner for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 and the same was numbered as C.C.No.57 of 2001 and subsequently, the same was transferred to the Court of the Special Judicial Magistrate of First Class for Excise, Ongole and numbered as C.C.No.82 of 2001. After due trial, the learned Magistrate found the accused guilty for the offence punishable under Section 138 of the Negotiable Instruments Act and accordingly, convicted and sentenced him to undergo rigorous imprisonment for a period of one year and he was directed to pay an amount of Rs.70,000/- to the complainant under Section 357 Cr.P.C. towards compensation in default, to suffer simple imprisonment for a period of three months. Aggrieved thereby, the petitioner preferred the aforementioned appeal and the same was dismissed by the learned Sessions Judge confirming the judgment of the trial Court on the

ground that the trial Court has not committed any error. Challenging the said judgment, the petitioner filed this Criminal Revision Case.

3. Heard and perused the material available on record.

4. Though the petitioner was directed to issue notice to respondent No.2, the notice sent to respondent No.2 was returned unserved. The matter pertains to the year 2004. Basing on the concurrent findings of the Courts below, the petitioner was rightly convicted and hence, this Court is not inclined to interfere with the conviction imposed by the Courts below.

5. At this stage, learned counsel for the petitioner submitted that the petitioner is aged 60 years and he is suffering from several health problems and hence, he prays to take a lenient view and to set aside the sentence of imprisonment.

6. Considering the facts and circumstances of the case and the submission of the learned counsel for the petitioner, the sentence of imprisonment is set aside.

7. In the result, the conviction imposed against the petitioner in the judgment, dated 9.8.2004, in Criminal Appeal No.58 of 2002 on the file of the III Additional District and Sessions Judge, Fast Track Court, Ongole for the offence punishable under Section 138 of the Negotiable Instruments Act is confirmed. However, the sentence of imprisonment imposed by the Court below for the said offence is set aside. As far as the compensation is concerned, the petitioner is directed to pay the compensation of Rs.70,000/- to respondent No.2 under Section 357 Cr.P.C. The default clause of sentence of simple imprisonment for a period of three months is also set aside.

7. Accordingly, this Criminal Revision Case is partly allowed.

8. Miscellaneous petitions pending, if any, in this Criminal Revision Case shall stand closed.

JUSTICE RAJA ELANGO

20.7.2016

AMD

THE HONOURABLE SRI JUSTICE RAJA ELANGO

—

—

—

—

—

—

—

—

—

-
-
CRIMINAL REVISION CASE No.1403 OF 2004
-
-

Date: 20.7.2016

AMD