

HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.136 of 2009

JUDGMENT:

This Criminal Revision Case, under Sections 397 & 401 of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C."), is directed against the judgment, dated 28.01.2009, in CrI.A.No.230 of 2008, on the file of the Special Judge for Economic Offences-cum-VIII Additional Metropolitan Sessions Judge, Hyderabad, whereunder and whereby the conviction and sentence of the petitioner/accused to undergo Simple Imprisonment for a period of six (6) months for the offence punishable under Section 138 of the Negotiable Instruments Act recorded in judgment, dated 14.07.2008, in C.C.No.529 of 2003, by the III Additional Chief Metropolitan Magistrate, Hyderabad, was confirmed.

2. The brief facts, that are necessary for the disposal of the present Criminal Revision Case, may be stated as follows:

The accused borrowed Rs.50,000/- from the complainant on 10.04.2002 and executed a promissory note agreeing to repay the same with interest but failed to repay. Subsequently on demand the accused issued a cheque for Rs.53,000/- bearing No.504216, dated 05.09.2002, drawn on Syndicate Bank Ltd., Borabanda Branch, Hyderabad, towards discharge of the debt. The said cheque was presented in ICICI Bank, S.R. Colony Branch, Hyderabad, which was dishonoured on 27.02.2003 with an endorsement "Insufficient funds". Thereafter, a legal notice was got issued to the accused on 10.03.2003 which was received but the accused failed to repay the amount and hence, the complaint.

3. The accused was examined under Section 239 Cr.P.C. and when the charge under Section 138 of the Negotiable Instruments Act was framed, read over and explained to the accused, he pleaded not guilty and claimed to be tried.

4. To substantiate the charges, the prosecution examined P.W.1 and got marked Exs.P-1 to P-12.

5. After closure of the prosecution evidence, the accused was examined under Section 313 Cr.P.C. with reference to the incriminating evidence appearing against him in the evidence of P.W.1. He denied the same. On behalf of the accused, the accused himself got examined as D.W.1 and marked Exs.D-1 to D-3.

6. The trial Court, after considering the evidence on record, found the accused guilty of the offence punishable under Section 138 of the Negotiable Instruments Act and sentenced as stated above. On appeal, the said conviction and sentence was confirmed. Hence, the present Criminal Revision Case.

7. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent and perused the material available on record.

8. On the date of hearing, the complainant as well as the accused are present before this Court. Sri K. Chidambaram, learned counsel for the complainant and Sri Nandigam Krishna Rao, learned counsel for the petitioner/accused are present and the complainant has received a sum of Rs.60,000/- (Rupees sixty thousand only) towards full and final settlement and informed that she is not intending to prosecute further.

9. Considering the said submissions and after recording the statements made by the accused as well as the complainant,

the Criminal Revision Case is allowed and the judgment, dated 28.01.2009, passed in Crl.A.No.230 of 2008, by the Special Judge for Economic Offences-cum-VIII Additional Metropolitan Sessions Judge, Hyderabad, confirming the judgment in C.C.No.529 of 2003, dated 14.07.2008, passed by the III Additional Chief Metropolitan Magistrate, Hyderabad, is set aside and the petitioner/accused is acquitted of the offence under Section 138 of the Negotiable Instruments Act. Bail bonds, if any, shall stand cancelled.

10. Accordingly, the Criminal Revision Case is allowed. Consequently, the Miscellaneous Petitions, if any, pending in this criminal revision case shall stand closed.



RAJA ELANGO, J

Date: 23rd August, 2016

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