

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.821 OF 2008

ORDER:

This Criminal Revision Case, under Sections 397 and 401 of the Code of Criminal Procedure, 1973, is filed by the petitioner/appellant/accused challenging the judgment, dated 11.06.2008, in Criminal Appeal No.62 of 2007 on the file of III Additional Sessions Judge, Guntur, whereunder and whereby, the learned Sessions Judge dismissed the appeal confirming the conviction and sentence imposed against the petitioner in C.C.No.482 of 2005, dt.17.01.2007 on the file of V Additional Junior Civil Judge, Guntur.

2. Respondent No.1 herein is the complainant and the petitioner herein is the accused. Respondent No.1 filed a private complaint against the petitioner before V Additional Junior Civil Judge, Guntur for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 and the same was numbered as C.C.No.482 of 2005. 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 four months and to pay fine of Rs.500/-, in default, to undergo simple imprisonment for a period of one month. Aggrieved thereby, the petitioner preferred the aforesaid 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. After arguing for some time, learned counsel for the petitioner/accused confined his arguments only to the extent of reducing the sentence of imprisonment on the ground that the petitioner is suffering from heart problem and he is having three children and aged parents.

5. Basing on the concurrent findings of Courts below, the petitioner was rightly convicted and hence, this Court is not inclined to interfere with the conviction imposed by the Courts below. However, taking into consideration of the fact that the petitioner is a Government Employee and he is suffering from heart problem, this Court is inclined to modify the sentence.

6. In the result, the conviction imposed against the petitioner in the judgment, dated 11.06.2008, in Criminal Appeal No.62 of 2007 on the file of III Additional Sessions Judge, Guntur for the offence punishable under Section 138 of the Negotiable Instruments Act is confirmed. However, the sentence of imprisonment imposed by the trial Court, which was confirmed by the first appellate Court, for the said offence is set aside and the petitioner is directed to pay additional fine of Rs.3,000/- (Rupees Three Thousand only) on or before 30.09.2016 and the same shall be given to the complainant as compensation. If the petitioner fails to pay the said amount, the petitioner shall undergo simple imprisonment for a period of one month.

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

08.09.2016
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