

THE HON'BLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.817 OF 2009

ORDER:

The petitioner/accused has preferred the present criminal revision case by invoking the provisions under Sections 397 and 401 of Code of Criminal Procedure (Cr.P.C.,) being aggrieved by the order, dated 18.05.2009, passed in Criminal Appeal No.49 of 2009 by the II Additional Metropolitan Sessions Judge, Hyderabad, whereby the learned Sessions Judge dismissed the criminal appeal by confirming the order dated 03.02.2009, passed in C.C.No.537 of 2002 by the VII Additional Chief Metropolitan Magistrate, Hyderabad, whereby the learned Judge convicted the petitioner herein for the offence under Section 138 of the Negotiable Instruments Act and sentenced him to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.4,000/- (Rupees four thousand only), in default to suffer simple imprisonment for a period of three months.

Heard and perused the material available on record.

Being it is a concurrent finding, normally, this Court is not inclined to interfere with the finding of conviction recorded by the trial Court, which is also confirmed by the lower appellate Court.

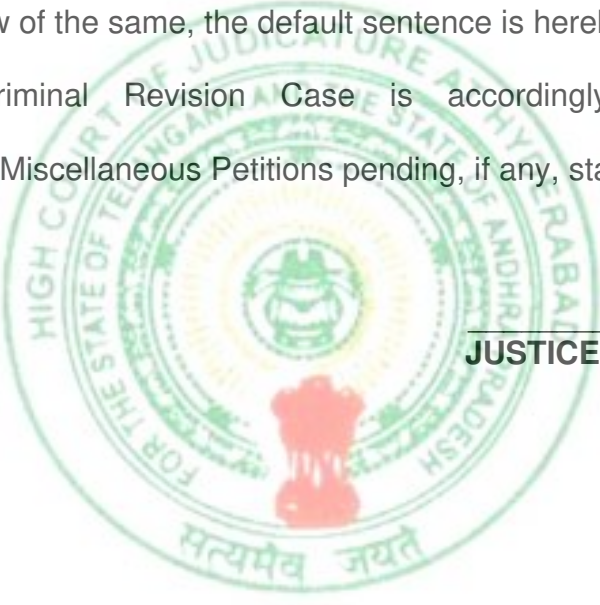
At this stage, the learned counsel for the petitioner submits that it is true that the petitioner has availed the hand loan from the complainant, but he could not able to honour the cheque given by him as he suffered loss in his business and that he is ready to pay Rs.3,00,000/- (Rupees three lakhs only), which may be imposed as fine and as such, he prayed to set aside the sentence of imprisonment.

Considering the facts and circumstances of the case, the pendency of the case from 2002 and also taking into consideration the financial position of the petitioner, the sentence of imprisonment imposed on the

petitioner by the trial Court, which is confirmed by the lower appellate Court, is hereby set aside and the fine of Rs.4,000/- (Rupees four thousand only) is enhanced to Rs.3,00,000/- (Rupees three lakhs only) and the said fine of Rs.3,00,000/- is to be paid as compensation to the complainant, and in default of payment of fine, the petitioner shall suffer simple imprisonment for a period of three months.

It is submitted by the learned counsel for the petitioner and the learned counsel for the complainant that today the petitioner has paid an amount of Rs.3,00,000/- (Rupees three lakhs only) by way of Demand Draft to the complainant and that the complainant has accepted the said amount. In view of the same, the default sentence is hereby set aside.

The Criminal Revision Case is accordingly disposed of. Consequently, Miscellaneous Petitions pending, if any, stand dismissed.



JUSTICE RAJA ELANGO

29.08.2016
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