

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Crl.RC MP No.2740 of 2014

AND

CRIMINAL REVISION CASE No.62 of 2007

ORDER:

This Criminal Revision Case is filed under Section 397 and 401 Cr.PC challenging the judgment dated 08.1.2007 in Criminal Appeal No.460 of 2005 on the file of the Court of XI Additional Sessions Judge (Fast Track Court), Guntur at Tenali wherein and whereby the conviction and sentence imposed against the petitioner by Judgment dated 08.12.2005 in C.C. No.400 of 2002 on the file of the Court of II Additional Munsif Magistrate, Tenali was confirmed.

2. Crl.RC MP No.2740 of 2014 is filed under Section 320(2) Cr.PC to permit the petitioner and the de facto complainant to compound the case.

3. The petitioner and Sri Eddu Chinna Apparao, representing the respondent-de facto complainant, Milk Producers Co-operative Aided Society, Nandivelugu as its present President are present. Sri Ch.Ravindra Babu, learned counsel identified the petitioner. Ms.V.Yashoda, Advocate representing learned counsel for the de facto complainant Smt.M.Anitha, identified Sri Eddu Chinna Apparao. Photocopies of Adhar cards of the petitioner and Sri Eddu Chinna Apparao are also filed.

4. A perusal of the record reveals that the petitioner faced the trial in C.C. No.400 of 2002 for the offence under Section 406 IPC. After fullfledged trial, the trial court arrived at a conclusion that the petitioner committed the offence punishable under Section 406 IPC, convicted and sentenced him to undergo Simple Imprisonment for one year. The petitioner preferred Crl.A.No.460 of 2005 on the file of the court of XI Additional Sessions Judge (FTC), Guntur at Tenali and the same was dismissed on 08.1.2007. Hence, the present Criminal Revision Case.

5. The allegation against the petitioner is that he has withdrawn Rs.50,000/- from the de facto complainant-society without any authority. The present President of the society submitted in the open court that the petitioner has deposited an amount of Rs.50,000/- in the account of the society. To substantiate the same he has filed Bank pay-in-slip and copy of the certificate issued by the society to that effect. The fact remains that the petitioner paid the amount to the society he has no dues to the society.

6. As per the principle enunciated in the decisions reported in **Raja Ram Kashyap v State of Uttar Pradesh**^[1], **Gian Singh v State of Punjab**^[2] and **J.L.Soman v State of Bihar**^[3], the offence under Section 406 IPC is compoundable with the permission of the court.

7. The learned counsel for the petitioner has drawn my attention to the decisions:

(i) **V.Raj Kumar Reddy v K.Madhava Reddy**^[4] wherein this court permitted the petitioner therein to compound the offence at the stage of Criminal Revision Case. The relevant paragraph No.6 is extracted hereunder:

6. Accordingly and in view of the enabling provisions in the CrPC, CrI.RC.MP.No.3804 of 2014 is ordered. Therefore, the Criminal Revision Case is allowed setting aside the judgment dated 0.08.2006 passed in CrI.A.No.148 of 2003 confirming the judgment of the trial court dated 22.12.2003 made in CC.No.52 of 2001. The conviction and sentence imposed against the petitioner for the offences punishable under Sections 418 and 420 of the IPC are thus set aside and he is acquitted of the same. The bail bonds of the petitioner/ accused shall stand cancelled. The memorandum of compromise shall form part of the record. The fine amount, if any, paid by him shall be returned to him.

(ii) **Khursheed v State of Uttar Pradesh**^[5]. In Paragraph Nos.14, 15 and 16, the Hon'ble Apex Court held as follows:

14. On the facts and in the circumstances of the case, and

considering the deed of compromise and having heard learned counsel for the parties, in our opinion, ends of justice would be met if we grant necessary permission for compounding an offence punishable under Section 325 read with Section 34 IPC as required by sub-section (2) of Section 320 of the Code. The offence punishable under Section 323 IPC has already been compounded by the parties.

15. Sub-section (8) of Section 320 states that the composition of offence under the section shall have an effect of acquittal of the accused with whom the offence has been compounded. The resultant effect of compounding of offences would be that the accused should be acquitted. In other words, once the offences have been compounded and the requisite permission is granted by the court, the accused must be acquitted.

16. For the foregoing reasons, the appeal deserves to be allowed and is accordingly allowed. Compounding of offence is permitted and the appellants are ordered to be acquitted.

8. Having regard to the facts and circumstances of the case and also the principle enunciated in the cases cited supra, I am of the considered view that it is a fit case to permit the parties to enter into compromise.

9. In the result, Cril.RC MP No.2740 of 2014 is ordered. Consequently, the Criminal Revision Case is allowed and the conviction and sentence imposed against the petitioner for the offence under Section 406 IPC to undergo Simple Imprisonment for one year in C.C. No.400 of 2002 on the file of the Court of II Additional Munsif Magistrate, Tenali, as confirmed in Criminal Appeal No.460 of 2005 on the file of the Court of XI Additional Sessions Judge (Fast Track Court), Guntur at Tenali, is hereby set aside. Consequently, the petitioner is acquitted for the offence under Section 406 IPC. The bail bonds executed by the petitioner shall stand cancelled. Miscellaneous petitions, if any pending in this Criminal Revision Case, shall stand closed.

T.SUNIL CHOWDARY, J

June 16, 2016.
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- [\[1\]](#) (2009) 14 SCC 248
- [\[2\]](#) (2012) 10 SCC 303
- [\[3\]](#) (2014) 13 SCC 593
- [\[4\]](#) CrI.R.C.No.1472 of 2006, dated 18.11.2014.
- [\[5\]](#) (2007) 12 SCC 68