

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.2109 OF 2006

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 15.12.2006, in Criminal Appeal No.187 of 2005 on the file of III Additional District & Sessions Judge, Kakinada, whereunder and whereby, the learned Sessions Judge dismissed the appeal confirming the conviction and sentence imposed against the petitioner in C.C.No.622 of 2002, dt.29.10.2005, on the file of IV Additional Judicial Magistrate of First Class, Kakinada.

2. Respondent No.2 herein is the complainant and the petitioner herein is the accused. Respondent No.2 filed a private complaint against the petitioner before IV Additional Judicial Magistrate of First Class, Kakinada for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 and the same was numbered as C.C.No.622 of 2002. 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 six months and to pay fine of Rs.3,000/-, in default, to undergo simple imprisonment for a period of three months. 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 having three children and he is the only breadwinner of the family.

5. Basing on 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 the fact that the petitioner is having three children, they are school going and he is the only breadwinner of the family, this Court is inclined to modify the sentence.

6. In the result, the conviction imposed against the petitioner in the judgment, dated 15.12.2006, in Criminal Appeal No.187 of 2006 on the file of III Additional District & Sessions Judge, Kakinada 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. However, the petitioner is directed to pay compensation of Rs.2,50,000/- (Rupees two lakhs fifty thousand only) as awarded by the trial Court, which was confirmed by the first appellate to the complainant.

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

27.09.2016
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Date: 27.09.2016

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