

HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL REVISION CASE No.1623 of 2004

ORDER:

1. This revision case is filed by the complainant challenging the judgment dated 6.2.2004 passed in C.C.No.1107 of 2001 by the IV Metropolitan Magistrate, Nampally, Hyderabad.

2. Respondents 1 and 2 were tried in the above CC for the offence punishable under Section 138 of the Negotiable Instruments Act. The learned Magistrate after considering the oral and documentary evidence i.e., P.W.1 and Exs.P1 to P8, found the above respondents guilty for the offence under Section 138 of the Negotiable Instruments Act and convicted and sentenced them to pay a fine of Rs.5,000/- each in default to suffer simple imprisonment for a period of three months each. The petitioner-complainant filed this revision seeking enhancement of sentence.

3. Learned Counsel for the petitioner submitted that the petitioner succeeded in establishing the case for the offence under Section 138 of the Negotiable Instruments Act and that the trial Court having found the respondents Nos.1 and 2 guilty for the offence under Section 138 of the Negotiable Instruments Act, sentenced them to pay fine only and that the cheque amount involved in this case is Rs.50,000/- and as such, the sentence of fine imposed by the trial Court is very lesser.

4. It is pertinent to note that the offence under Section 138 of the Negotiable Instruments Act is punishable with imprisonment which may be extended to two years or with fine which may extend to twice the amount of the cheque or with both. The trial Court taking into consideration the facts and circumstances of the present case, convicted and sentenced the respondents 1 and 2 to pay fine of Rs.5,000/- each. The above sentence cannot be construed as

minimum/lesser punishment in view of the provisions of the Negotiable Instruments Act. The Act says that the fine amount 'may' extend to the twice amount of the cheque. It is always the discretion of the Court concerned. The trial Court taking into consideration all the aspects imposed the fine.

5. In the circumstances of the case and the time elapsed, this Court is of the view that the judgment of the trial Court does not warrant interference by this Court.

6. Accordingly, the Criminal Revision Case is dismissed. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

RAJA ELANGO, J

18th July 2016

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HONOURABLE SRI JUSTICE RAJA ELANGO

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