THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIL.R.C.M.P.No.4866 of 2016
AND
CRIMINAL REVISION CASE No.2929 of 2016

COMMON ORDER:

1 This criminal revision case is filed under Sections 397 and 401 Cr.PC challenging the judgment dated 16.09.2016 in Criminal Appeal No.192 of 2016 passed by the learned Special Judge for Economic Offences – cum - VIII Additional Metropolitan Sessions Judge, Hyderabad, confirming the judgment dated 05.02.2016 in C.C.No.72 of 2014 on the file of the Court of the III Special Magistrate, Hyderabad wherein and whereby the petitioners were convicted for the offence under Section 138 of the Negotiable Instruments Act and the second petitioner was sentenced to undergo simple imprisonment for six months and the first petitioner being company is directed to pay a sum of Rs.3.00 lakhs to the complainant towards compensation failing which the second petitioner who is representing the first petitioner shall suffer simple imprisonment for a period of four months.

2 The petitioners are the accused and the second respondent is the complainant in C.C.No.72 of 2014. The parties will be hereinafter referred to as they were arrayed before the trial court.

3 Crl.R.C.M.P.No.4866 of 2016 is filed by the complainant under Section 147 of the Negotiable Instruments Act to permit her to compound the offence with the accused and consequently set aside the conviction and sentence imposed against the accused.

4 Sri A. Vijaya Saradhi, learned counsel identified the petitioners-accused and Sri B.Muralidhar, learned counsel identified the second respondent-complainant.

5 The complainant in the open court submitted that she voluntarily entered into compromise with the accused at the advice of elders. She further submitted that an amount of Rs.45,000/- was paid to the High Court Legal Services Committee, Hyderabad towards costs for the purpose of compromising the matter and filed copy of the receipt No.679, dated 06.12.2016 along with joint memo. She also submitted that the accused paid the amount to her towards full and final settlement.

6 In **Damodar S.Prabhu v Sayed Babalal H**[1], the Hon'ble apex court framed certain guidelines to permit the parties to compound the offence under Section 138 of the Negotiable Instruments Act. The guideline (c) is relevant, which reads as follows:

> (c) Similarly, if the application for compounding is made before the Sessions Court or a High Court in revision or appeal, such compounding may be allowed on the condition that the accused pays 15% of the cheque amount by way of costs.

7 In this case, the cheque amount is Rs.3,00,000/-; therefore, if the compromise is to be permitted in this revision, an amount of Rs.45,000/- has to be paid by the accused towards costs. As observed above, an amount of Rs.45,000/- was paid to the High Court Legal Services Committed towards costs. Accordingly, the parties have complied with the guidelines issued by the apex court to permit them to compound the offence under Section 138 of the Negotiable Instruments Act.

[1] (2010) 5 SCC 663

8 Having regard to the facts and circumstances of the case and also the principle enunciated in the case cited supra, I am of the considered view that it is a fit case to permit the parties to compound the offence and accordingly acquit the petitioner for the offence under Section 138 of the Negotiable Instruments Act.

8. In the result, Crl.R.C.M.P.No.4866 of 2016 is ordered. The Criminal Revision Case is allowed, setting aside the conviction and sentence imposed against the petitioners–accused in C.C.No.72 of 2014 on the file of the Court of the III Special Magistrate, Hyderabad as confirmed in Criminal Appeal No.192 of 2016 passed by the learned Special Judge for Economic Offences – cum - VIII Additional Metropolitan Sessions Judge, Hyderabad, consequently, the accused are acquitted for the offence under Section 138 of the Negotiable Instruments Act. Miscellaneous petitions, if any pending in the criminal revision case, shall stand closed.

T.SUNIL CHOWDARY, J

December 12, 2016.

Kvsn