

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.192 of 2008

JUDGMENT:

1. This Criminal Revision Case is filed by the complainant challenging the judgment dated 26.11.2007 passed in C.C.No.70 of 2006 by the Judicial First Class Magistrate-cum-Principal Junior Civil Judge, Bhimavaram.

2. The complainant filed a private complaint before the learned Magistrate against the 2nd respondent-accused for the offence under Section 138 r/w 142 of the Negotiable Instruments Act. The same was taken cognizance by the learned Magistrate vide C.C.No.70 of 2006. It is alleged in the complaint that the accused borrowed an amount of Rs.2,25,000/- from the complainant on 4.9.2000 for his investment and maintenance of prawn tanks agreeing to repay the said amount with interest at 30% per annum and executed a promissory note. Subsequently, on repeated demands, the accused issued a cheque for Rs.3,20,625/-. When the cheque was presented, the same was dishonoured. The complainant issued notice to the accused, but he did not give any reply.

3. During the course of trial, P.Ws.1 and 2 were examined and Exs.P1 to P6 were marked on behalf of the prosecution. No oral or documentary evidence was adduced on behalf of the accused.

4. On appreciation of oral and documentary evidence, the trial Court found the accused guilty for the offence under Section 138 of the Negotiable Instruments Act, convicted and sentenced him to pay a fine of Rs.10,000/- in default to suffer simple imprisonment for three months. It was ordered that out of the fine amount, Rs.5,000/- shall be paid to the

complainant towards expenses and compensation. Being not satisfied with the sentence imposed by the trial Court, the complainant filed this revision.

5. Learned Counsel for the petitioner submitted that the trial Court erred in simply imposing fine of Rs.10,000/- even though the accused was found guilty for the offence under Section 138 of the Negotiable Instruments Act and that the punishment imposed by the trial Court is inadequate and that the fine amount for the offence under Section 138 of the Negotiable Instruments Act be imposed in terms of the provisions of the Act.

6. The learned Counsel for the petitioner could not serve notice on the 2nd respondent-accused.

7. From the material on record, it is apparent that after appreciation of the evidence on record, the trial Court found the accused guilty for the offence under Section 138 of the Negotiable Instruments Act, convicted and sentenced him as stated supra. The reasons recorded by the trial Court for taking a lenient view and for imposing fine of Rs.10,000/-, do not warrant any interference by this Court.

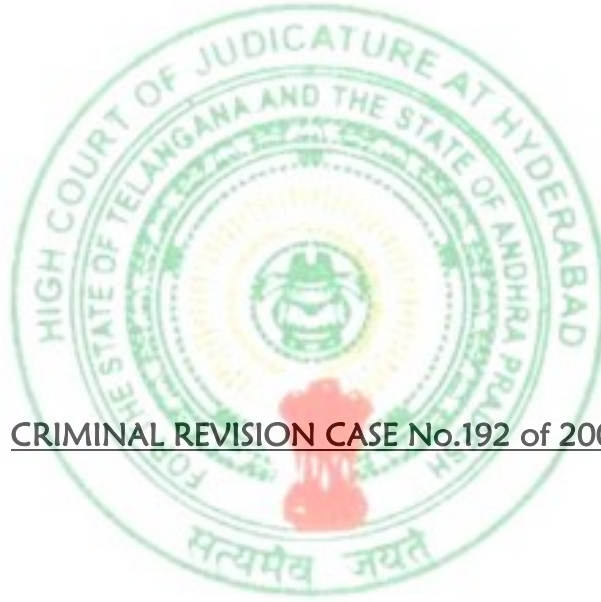
8. Accordingly, the Criminal Revision Case is dismissed. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE RAJA ELANGO

Dated:27th August, 2016

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27.8.2016

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