

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRL.R.C.M.P. No.4137 of 2016

AND

CRIMINAL REVISION CASE Nos.1927 of 2015

AND 2953 of 2016

COMMON ORDER:

These two criminal revision cases are filed under Sections 397 and 401 Cr.PC challenging the common judgment dated 13.08.2014 in Criminal Appeal Nos.24 and 60 of 2013 passed by the Court of the VI Additional Sessions Judge, Gooty, Anantapur District, modifying the judgment dated 30.01.2013 in C.C.No.135 of 2011 on the file of the Court of the Judicial First Class Magistrate, Gooty, Anantapur wherein and whereby the petitioner herein was convicted for the offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo simple imprisonment for six months and to pay a fine of Rs.5,000/- in default of payment of the fine amount, to suffer simple imprisonment for one month, was enhanced to undergo simple imprisonment for a period of one year and to pay a sum of Rs.6,00,000/- to the complainant as compensation.

2. The petitioner is the accused and the first respondent is the complainant in C.C. No.135 of 2011. The parties will be hereinafter referred to as they were arrayed before the trial Court.

3. Crl.R.C.M.P.No.4137 of 2016 is filed by the petitioner under Section 147 of the Negotiable Instruments Act to permit her to compound the offence with the complainant and consequently set aside the conviction and sentence imposed against her.

4. Sri G.Allabakash, learned counsel identified the petitioner-accused and Sri Maheswara Rao Kuncham, learned counsel identified the first respondent-complainant.

5. The complainant in the open Court submitted that he voluntarily entered into compromise with the accused at the advice of elders. He further submitted that an amount of Rs.30,000/- 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.670, dated 24.11.2016 along with joint memo. He also submitted that the accused paid an amount of Rs.6,00,000/- to him towards full and final settlement.

5. In **Damodar S.Prabhu v Sayed Babalal H¹**, 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:

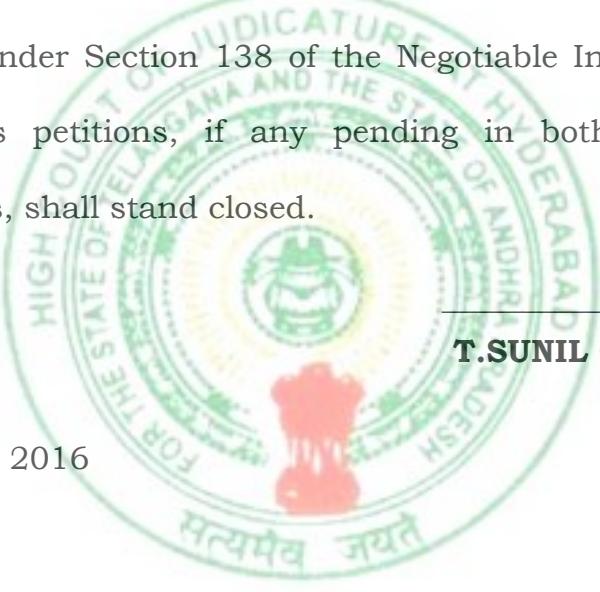
(c) Similarly, if the application for compounding is made before the Sessions Court or a High Court in revision or appeal, such compounding may be allowed on the condition that the accused pays 15% of the cheque amount by way of costs.

6. In this case, the cheque amount is Rs.1,00,000/-; therefore, if the compromise is to be permitted in this revision, an amount of Rs.15,000/- has to be paid by the accused towards costs. As observed above, an amount of Rs.15,000/- 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

7. 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, CrI.R.C.M.P.No.4137 of 2016 is ordered. Both the criminal revision cases are allowed, setting aside the conviction and sentence imposed against the petitioner–accused in C.C. No.135 of 2011 as modified and enhanced in CrI.A.Nos.24 and 60 of 2013 dated 13.08.2014 and, consequently, she is acquitted for the offence under Section 138 of the Negotiable Instruments Act. Miscellaneous petitions, if any pending in both the criminal revision cases, shall stand closed.



T.SUNIL CHOWDARY, J

2nd December 2016

RRB