

THE HON' BLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.572 of 2005

ORDER:

This Criminal Revision Case is preferred by the petitioner against the Judgment, dated 04.04.2005, passed in CrI.A.No.26 of 2003 by the IV Additional Sessions Judge, Warangal, whereby the learned Sessions Judge confirmed the conviction and sentence imposed by the I-Additional Judicial Magistrate of First Class, Warangal, in CC No.561 of 2000 vide Judgment, dated 29.01.2003.

The case of the prosecution is as follows:

The petitioner-accused and the 1st respondent-de facto complainant are known to each other. Due to their acquaintance, the petitioner borrowed a sum of Rs.50,000/- from the 1st respondent and issued a post dated cheque in discharge of the said amount. When the 1st respondent demanded to repay the said amount, the petitioner informed him to present the cheque already issued by him on 05.08.2000 and in the meantime, the petitioner got issued a legal notice to the 1st respondent with false allegations. The 1st respondent issued reply to the said notice denying the allegations and also informing the petitioner that he would present the cheque issued by the petitioner on 05.08.2000. When the 1st respondent presented the said cheque in his Bank, the same was returned with an endorsement that the account was closed. Hence, the 1st respondent issued a legal notice to the petitioner, but the same was returned. Then, the 1st respondent filed a complaint against the petitioner for the offence under Section 138 of the Negotiable Instruments Act (for short 'NI Act').

When the petitioner was examined under Section 251 Cr.P.C., before the trial Court, he denied the allegations against him and claimed to be tried. During the course of trial, the prosecution examined PWs. 1 and 2 and marked Exs.P.1 to P.8. On behalf of the accused, DWs.1 and 2 were examined and Exs.D1 and D2 were marked.

On appreciation of oral and documentary evidence, the trial Court found the petitioner-accused guilty of the offence under Section 138 of the Negotiable Instruments Act, and accordingly convicted and sentenced him to suffer simple imprisonment for six (6) months for the above offence and also directed him to pay compensation of Rs.50,000/- within a period of one month from the date of that order. Aggrieved by the same, the petitioner preferred appeal in CrI.A. No.26 of 2003 before the IV-Additional Sessions Judge, Warangal. The learned Sessions Judge, after re-appreciation of the evidence, dismissed the appeal and confirmed the conviction and sentence passed by the trial Court. Challenging the same, the present revision is filed by the petitioner.

Heard and perused the entire material available on record.

A perusal of the record discloses that though the notice was sent to the 1st respondent, the same is not yet returned. Therefore, after evaluating the evidence and after considering the material available on record, this Court of the view that there are no valid reasons to interfere with the judgments of the Courts below in convicting the petitioner for the offence under Section 138 of NI Act.

When this Court pointed out that there are no merits in the revision, learned counsel for the petitioner – accused restricted his

arguments to the quantum of sentence, and prayed that a lenient view may be taken while imposing sentence.

Considering the facts and circumstances of the case and that the matter pertains to the year 2000, this Court is inclined to pass the following order:

The conviction recorded by the I-Additional Judicial Magistrate of First Class, Warangal, vide judgment, dated 29.01.2003, in CC No.561 of 2000, as confirmed by the IV-Additional Sessions Judge, Warangal, vide judgment, dated 04.04.2005, in CrI.A. No.26 of 2003, for the offence under Section 138 of the Negotiable Instruments Act, is hereby confirmed. However, the sentence of imprisonment imposed by the trial Court, as confirmed by the appellate Court, against the petitioner under the above head, is set aside and the compensation amount, which was directed to be paid by the petitioner, by the trial Court, is not interfered with.

Accordingly, the Criminal Revision Case is partly allowed. Consequently, miscellaneous applications, if any pending, shall stand closed.

RAJA ELANGO, J

August 09, 2016.
KTL