

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRL.R.C.M.P. No.5074 of 2016

AND

CRIMINAL REVISION CASE No.2554 of 2012

ORDER:

This criminal revision case is filed under Sections 397 and 401 Cr.PC challenging the judgment dated 19.12.2012 in Criminal Appeal No.551 of 2011 on the file of the Court of the IV Additional Sessions Judge, East Godavari District at Kakinada.

2. The petitioner filed CrI.R.C.M.P. No.5074 of 2016 seeking permission of this court to compromise the case with the second respondent and to set aside the judgment dated 19.12.2012 in Criminal Appeal No.551 of 2011, wherein and whereby the judgment dated 13.11.2011 in C.C. No.1604 of 2008 on the file of the Court of the V Additional Judicial Magistrate of First Class, Kakinada convicting the petitioner for the offence under Section 138 of the Negotiable Instruments Act and sentencing him to undergo simple imprisonment for one year, was confirmed.

4. The petitioner and the second respondent are present in the open court. Sri K.A.Narasimham, learned counsel identified the petitioner-accused and Sri P.Ravi Shankar, learned counsel identified the second respondent-complainant.

5. Both the parties submitted that they entered into compromise at the advice of the elders. An amount of Rs.30,000/- is paid to the Andhra Pradesh State Legal Services Authority, Hyderabad towards costs for the purpose of compromising the

matter and filed the receipt No.2139, dated 28.12.2016 along with joint memo.

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.2,00,000/-; therefore, if the compromise is to be permitted in this revision, an amount of Rs.30,000/- has to be paid by the accused towards costs. As observed above, an amount of Rs.30,000/- is paid to Andhra Pradesh State Legal Services Authority 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.

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.5074 of 2016 is ordered. The criminal revision case is allowed, setting aside the conviction and sentence imposed against the petitioner–accused in C.C. No.1604

¹ (2010) 5 SCC 663

of 2008 as confirmed in CrI.A.No.551 of 2011 and, consequently, he is 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 28, 2016.

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