

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

Criminal Revision Case No.738 of 2006

ORDER:

The present Criminal Revision Case is preferred challenging the concurrent findings recorded by the Courts below recording conviction under Section 255 (2) of the Criminal Procedure Code, 1973 (for short, 'Cr.P.C.') for the offence punishable under Section 138 of Negotiable Instruments Act, 1881 (for short, 'N.I. Act').

2. But, as could be seen, the revision petitioner/accused/appellant has to pay fine of Rs.2,000/-, in default of payment of fine to suffer simple imprisonment for three months; and compensation of Rs.1,10,000/- to the complainant under Section 357 of Cr.P.C. within three months as held by the trial Court i.e., the learned Judicial Magistrate of First Class, Siddipet, in his judgment dated 2.8.2005 in C.C. No.111 of 2004 and affirmed by the appellate Court i.e., IV-Additional District & Sessions Judge (Fast Track Court), Siddipet, in Criminal Appeal No.119 of 2005.

3. Heard Sri K. Joseph, learned counsel for the revision petitioner/accused. No representation for the 1st respondent/complainant.

4. The learned counsel for the revision petitioner raised certain submissions. First submission is that best evidence is not produced by the complainant since there were persons presented at the time when consideration was passed under the promissory note. None of them were examined. Therefore, to view the case of the

complainant with suspicion. Second, three cheques were obtained by the complainant that too per force by putting under fear of threat. Certain other contentions raised by the learned counsel before the Courts below were referred to by the learned Magistrate as well as the learned Sessions Judge for the revision petitioner. But, as could be seen from the contentions raised before the Courts below they were answered by the respective Courts, and, certainly, there is no infirmity at all therein. In fact, when the judgment rendered by the appellate Court is examined, every submission made was answered in paragraph-16. In paragraph-17 answering that the cheque was in the name of Durga Constructions, represented by its sole proprietor, and the construction company was not made as a party, the learned Appellate Judge would observe that the liability of the sole proprietor is absolute and that he was alone responsible for the acts of the construction company, and, therefore, not showing the construction company as a party to the proceeding, it cannot be said that the said complaint was defective. The other submissions made by the learned counsel before him were answered in respective paragraphs referring to the rulings also. In fact, the offence under Section 420 I.P.C. lodged by the complainant was, of course, taken out and, only the offence punishable under Section 138 of N.I. Act was clutched.

5. It is settled proposition and needless to refer to any rulings that when there have been concurrent findings of fact recorded by the Court below, revisional Court cannot supplant its views in place of views expressed by the Courts below consistently and

interfere with the findings recorded keeping in view the decision in **Hakeem Khan and others v. State of Madhya Pradesh**¹. In such an eventuality, certainly, it is to be held that there is no merit in the present Criminal Revision Case.

6. The learned counsel for the revision petitioner would make a request to fix certain time to pay Rs.1,10,000/- granted by the trial Court and affirmed by the appellate Court towards compensation under Section 357 of Cr.P.C. stating that the trial Court fixed three months' time period for payment of compensation amount of Rs.1,10,000/- only. No stay was granted by this Court, as could be seen from the proceeding sheet, in case the compensation amount is still not paid, three months' time is granted to the revision petitioner to pay compensation of Rs.1,10,000/- to the 1st respondent/complainant.

7. Therefore, the present Criminal Revision Case is dismissed.

As a sequel thereto, miscellaneous petitions, if any, pending in the Criminal Revision Case shall stand closed.

A. SHANKAR NARAYANA

Dt.02.11.2017
gbs

¹ (2017) 5 SCC 719