

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL REVISION CASE No.1517 OF 2006

ORDER:

This Criminal Revision Case, under Sections 397 and 401 Cr.P.C., is filed questioning the inadequate sentence inflicted on respondent No.1 – accused by judgment, dated 19.08.2005, in C.C.No.101 of 2002, on the file of the learned I Additional Chief Metropolitan Magistrate, Visakhapatnam, for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the Act').

2. No representation for the revision petitioner, despite listing the matter on 09.11.2017 and again listing in the advance list, which was released on 13.11.2017, and re-notifying in today's special list mentioning to be taken at 12:30 PM onwards.

3. The cheque amounts were Rs.40,000/- and Rs.20,000/- issued on two different dates, as could be seen from the evidence of PWs.1 to 3. By the aforesaid judgment, the learned Magistrate, by examining PWs.1 to 3 and marking Exs.P1 to P15, though, recorded findings in favour of the revision petitioner and convicted respondent No.1, under Section 255 (2) Cr.P.C. for the said offence, but, on questioning respondent No.1 – accused regarding quantum of sentence, in view of the answer given by him, opined that a lenient view has to be taken imposing fine rather than sending respondent No.1 to jail. Having recorded so, the learned Magistrate imposed a fine of Rs.5,000/-, in

default to suffer simple imprisonment for three months for the offence punishable under Section 138 of the Act, and if the fine amount is realized, ordered to pay a sum of Rs.2,500/- to the revision petitioner towards compensation, under Section 357 (3) Cr.P.C., within thirty days from the date of judgment.

4. Whether respondent No.1 has paid the fine amount or not is not known, as none appears for respondent No.1. Leaving apart the representation on behalf of respondent No.1, even on behalf of the revision petitioner – complainant, there is no representation as mentioned in the above. When the revision petitioner – complainant is not representing the matter, having filed the revision case in the year 2006 and despite listing it thrice in a span of two weeks, it has to be held that the revision petitioner has no grievance or seems to have no interest in the *lis*. Even otherwise, the discretion exercised by the learned Magistrate cannot be interfered with, unless something is shown by the revision petitioner in order to justify the enhancement of sentence.

5. Hence, the present Criminal Revision Case is dismissed. Miscellaneous Petitions, if any, pending in this Criminal Revision Case shall stand closed.

A. SHANKAR NARAYANA, J

November 16, 2017.
MD