

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL REVISION CASE NO.1214 OF 2005

ORDER:

This criminal revision case is filed under Sections 397 & 401 of Cr.P.C questioning the propriety, legality and regularity of the sentence imposed by the II Additional Judicial I Class Magistrate in C.C.No.146 of 2003 dated 08.06.2005, having found the first respondent/accused guilty for the offence punishable under Section 138 of Negotiable Instruments Act (for short 'N.I. Act'), imposing sentence of simple imprisonment for six months and fine of Rs.500/- with default sentence.

Petitioner/complainant filed the present revision on the ground that the Trial Court did not award any compensation to him and when the accused was found guilty, he was sentenced and imposed punishment not commensurating with the gravity of offence, thereby prayed that the sentence imposed on the accused is illegal, warranting interference of this Court while exercising power under Sections 397 & 401 of Cr.P.C.

Learned counsel for the petitioner Sri K. Sita Ram contended that the sentence imposed by the Trial Court is not commensurate with the gravity of offence and in support of his contention, learned counsel placed reliance on the judgment of the Supreme Court in **Suganthi Suresh Kumar v. Jagdeeshan**¹.

The Trial Court having found that the accused is guilty for the offence punishable under Section 138 of N.I. Act and sentenced to suffer simple imprisonment for six months and imposed fine of Rs.500/- with default sentence.

¹ (2002) 2 Supreme Court Cases 420

But, in **Suganthi Suresh Kumar**¹, the amount involved in the calendar case was Rs.4,50,000/- and the Trial Court imposed flea-bite sentence i.e. standing in Court till rising of Court and fine of Rs.5,000/- and the same was affirmed by the High Court. Thereupon, when the matter reached Supreme Court, the Apex Court remitted the case back to the Trial Court observing that that it is not necessary to indicate what exactly should be the limit of proper sentence to be passed. Further, the Apex Court directed the Magistrate to hear both sides once again and pass a sentence which is condign.

But, the principle laid down in the above judgment has no application to the present facts of the case, for the reason that the Trial Court sentenced the respondent with simple imprisonment for six months and fine of Rs.500/-. Moreover, the amount involved in the present case is only Rs.31,008/-. Therefore, it is difficult to accept the contention of the petitioner that the sentence imposed by the Trial Court is flea-bite sentence. That apart, the first respondent/accused might have undergone simple imprisonment for six months by now. Hence, I find no ground to increase the sentence of simple imprisonment of six months and consequently, the criminal revision case is liable to be dismissed.

In the result, the criminal revision case is dismissed

Consequently, miscellaneous applications pending if any, shall stand dismissed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Date:03.08.2017
SP