

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

Criminal Revision Case No.1356 of 2004

JUDGMENT:

The present Criminal Revision Case is preferred by the revision petitioner/respondent/complainant aggrieved over the modification of sentence of imprisonment for six months inflicted by the learned Additional Judicial Magistrate of First Class, Kothagudem, in C.C. No.305 of 1998, dated 12.07.2001, to that of fine amount of Rs.5,000/- (Rupees Five thousand only) by the lower appellate Court i.e., the II-Additional Sessions Judge (FTC-I), Khammam, by his judgment, dated 28.5.2004, in C.C. No.101 of 2001.

2. The 1st respondent is the firm, represented by its Managing Partner, Edupuganti Venkata Satya Vara Prasad. For the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, the learned Magistrate having found that the revision petitioner proved the guilt of the 1st respondent, convicted him under Section 255 (2) of Criminal Procedure Code, 1973 (for short, 'Cr.P.C.') and inflicted simple imprisonment for a period of six months directing the Managing Partner to undergo the said sentence on the ground that he was in-charge and responsible for the conduct of the business of the company.

3. When questioned the said sentence, the learned lower Appellate Judge, while setting aside the imprisonment, modified the

sentence to that of Rs.5,000/- fine amount, from out of which Rs.4,000/- was ordered to be paid to the revision petitioner/complainant as compensation under Section 357 (3) of Cr.P.C.

4. Aggrieved over the said order, the revision petitioner/complainant preferred the Criminal Revision Case. His main submission is that the only reason assigned by the lower Appellate Court in modifying the sentence of conviction was that the company cannot be imprisoned as it cannot be a living person. According to the learned counsel for the revision petitioner, the company by itself cannot do any act and the living person can only do or acts on behalf of a legal person, and the Managing Partner himself paid the fine amount, as imposed by the lower appellate Court, and, therefore, the lower appellate Court was not justified in modifying the sentence.

5. As could be seen from the cause title in the Calendar Case, the complainant had only arraigned the company as accused but did not separately arraign the Managing Partner of the said company setting out the requirements in his complaint. Having not arraigned the Managing Partner or the person who is responsible for day-to-day functions, complainant cannot now maintain the present Criminal Revision Case questioning the modification of the order passed by the lower Appellate Court. There is absolutely no error crept in the judgment of the lower Appellate Court in modifying the sentence of

imprisonment to that of fine to be paid by the firm represented by its Managing Partner. Thus, there is absolutely no legal infirmity at all warranting interference.

6. Hence, the 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.15.11.2017
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