

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL R.C. M.P. No.5029 OF OF 2017

IN/AND

CRIMINAL REVISION CASE No.2344 OF 2017

COMMON JUDGMENT:

The learned Special Magistrate, Tirupati, convicted the revision petitioner - accused viz., B. Ravi Kumar, under Section 255 (2) of the Code of Criminal Procedure, 1973, in C.C. No.6 of 2014 for the offence punishable under Section 138 read with Section 142 of the Negotiable Instruments Act, 1881, and sentenced him to undergo simple imprisonment for a period of one year and also to pay a fine of Rs.5,000/- with default sentence to suffer simple imprisonment for a period of three (3) months by the judgment dated 05.01.2015.

2. When the revision petitioner carried the matter to the lower appellate Court, the learned V Additional Sessions Judge, Tirupati, by the judgment, dated 16.08.2017, dismissed the appeal in Criminal Appeal No.29 of 2015, confirming the conviction recorded and also maintaining the sentence of imprisonment inflicted by the learned Magistrate along with the fine imposed. Aggrieved over the same, the present Criminal Revision Case is preferred.

3. However, Criminal R.C. M.P. No.5029 of 2017 is filed by Smt. B. Rajeswari, who is wife of the revision petitioner, on behalf of

the revision petitioner, praying to permit her to compromise the matter with respondent No.2 - complainant, viz., C. Raghupathi, by compounding the offence against the revision petitioner as they settled the matter by entering into compromise and accordingly requests to acquit the revision petitioner in view of the compromise by setting aside the conviction and sentence imposed against him by the Courts below.

4. Sri Jithender Ravo Veeramalla, learned counsel for the revision petitioner, would submit that since the revision petitioner has been in Central Prison, Kadapa, serving out the sentence of imprisonment, his wife, Smt. B. Rajeswari is representing him in the present compromise petition.

5. Sri Jithender Rao Veeramalla, learned counsel for the revision petitioner - accused, and Smt. Pulipati Radhika, learned counsel for respondent No.2 - complainant, would submit that the wife of the revision petitioner and the complainant entered into compromise at the instance of their elders and well-wishers and settled the dispute by paying a sum of Rs.1,20,000/- (Rupees one lakh twenty thousand only) which includes the cheque amount of Rs.80,000/- (Rupees eighty thousand only) and excess of Rs.40,000/- (Rupees forty thousand only) to the complainant on 29.10.2017 and the complainant also acknowledged the same by issuing a stamped receipt dated 29.10.2017, original of which is filed along with this

compromise petition, for the said sum and to that effect they have also filed a Joint Memo, signed by both parties as well as their counsel, stating that they have entered into settlement compromising the matter and, therefore, request to record the compromise and allow the present revision and consequently, to set aside the conviction recorded including the sentence of imprisonment and fine imposed by the Courts below.

6. Both parties i.e., the wife of the revision petitioner (accused) Smt. B. Rajeswari, and respondent No.2 - complainant viz., C. Raghupathi are present along with their respective counsel Sri Jithender Rao Veeramalla and Smt. Pulipati Radhika, and the parties are identified by their respective counsel. Even with reference to identity of the parties, they produced their "Aadhaar Cards" and the Court Officer verified their identity.

7. On being asked, the complainant and the wife of the revision petitioner report that they have compromised the matter by entering into the settlement as referred to above and, therefore, request to permit them to compromise the matter, to record the compromise and compound the offence and to allow the present revision by setting aside the conviction recorded against the revision petitioner by the Courts below.

8. Since the revision petitioner is serving out the sentence, his wife is permitted to enter into compromise.

9. Since both parties have affirmed the terms of the joint memo and request to record the compromise, and in view of the law declared by the Hon'ble Supreme Court in **Damodar S. Prabhu v. Sayed Babalal H.**¹, since the revision petitioner has paid an amount of Rs.12,000/- (Rupees twelve thousand only) towards 15% of the cheque amount that being Rs.80,000/-, by way of costs to the Andhra Pradesh State Legal Services Authority, Nyaya Seva Sadan, City Civil Court Buildings, Hyderabad, and filed a memo to that effect annexing the original receipt, dated 04.12.2017, Crl.R.C.M.P.5029 of 2017 is allowed recording the compromise and accordingly, the offence registered against the revision petitioner - accused is compounded.

10. Consequently, the Criminal Revision Case is allowed in terms of the compromise recorded, setting aside the conviction recorded by the trial Court as affirmed by the lower appellate Court including the sentence of imprisonment and fine imposed against the revision petitioner - accused, and consequently the revision petitioner is acquitted of the offence. Therefore, it is directed that the revision petitioner shall be set at liberty forthwith, in case, he is not required in any other case. The bail bonds, if any, furnished by the revision petitioner shall stand cancelled.

¹ (2010) 5 SCC 663

As a sequel thereto, Miscellaneous Petitions, if any, pending in the present revision stand closed.

A. SHANKAR NARAYANA, J

December 4, 2017.

NOTE:

C.C. BY TOMORROW.

(BO)
PV

