

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL REVISION CASE No.13 OF 2006

JUDGMENT:

Heard Sri T. Nitender Singh, learned counsel, representing Sri T. Pradyumnakumar Reddy, learned counsel for the revision petitioner - complainant, and perused the material on record.

2. Before advertng to anything touching the request in the present Criminal Revision Case, it is to observe that the present Criminal Revision Case was filed in the year 2006 and it has come up on Bench on 30.01.2006, on which day, it was directed to be listed two weeks later. On 20.02.2006, when it came up again, the revision was admitted and notice was issued and it is on record that respondent No.2 - accused was served with notice.

3. It appears that later, the revision petitioner, who is the complainant, was not at all bothered to get the matter listed till it is listed today.

4. The revision petitioner is the complainant. His grievance has been that the learned Judicial Magistrate of First Class, Narayanpet, while recording conviction under Section 255(2) of the Code of Criminal Procedure, 1973, for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, by the judgment dated 20.07.2005, in C.C. No.145 of 2000, sentenced him to pay fine of Rs.5,000/- with default sentence of one month simple

imprisonment and also directed to pay an amount of Rs.4,000/- to the complainant out of the fine amount after lapse of appeal time. The main submission is that the sentence imposed on respondent No.2 was too lenient to sustain and the learned trial Court ought to have, at least, ordered compensation equal to the amount mentioned in the cheque. These are the grievances of the revision petitioner.

5. The learned counsel for the revision petitioner is fair enough to read the relevant portion drawing attention to the observations made by the learned Magistrate in imposing fine by taking a lenient view. In paragraph No.14, while dealing with point No.2, the learned Magistrate records that she opined to take a lenient view having observed physical position of respondent No.2 in the Court Hall on hearing dates and while conducting examination under Section 313 of the Code that respondent No.2 was not even in a position to talk having been affected by paralysis and he was not in a position even to move without the assistance of the family members with delicate physical position. When these have been the observations made by the learned Magistrate, certainly, no other view can be substituted or supplanted for taking other than the lenient view taken by the learned Magistrate. In fact, the position of respondent No2, projected by the learned Magistrate would even give an indication that he was not that well at the age of 50 years, then.

6. So, the question is whether at this distance of time, can the finding recorded by the learned Magistrate recording imposition of sentence of fine alone can be interdicted?

7. The answer is certainly no. so far as awarding cheque amount is concerned, it is already expressed in the above, the order cannot be interdicted, the question of modifying it and, in case, really modification requires, sending it back to the learned Magistrate at this distance of time does not serve the ends of justice.

8. Therefore, the Criminal Revision Case is dismissed.

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

November 7, 2017.
PV

A. SHANKAR NARAYANA, J

