

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL REVISION CASE No.501 of 2005

ORDER:

This criminal revision case is preferred under Sections 397 and 401 of Code of Criminal Procedure (for short "Cr.P.C.") questioning the legality, propriety and regularity of the order dated 22.03.2005 passed in CrI.A.No.117 of 2004 by the II Additional Metropolitan Sessions Judge, Hyderabad, whereby the conviction and sentence imposed by the XVII Metropolitan Magistrate, Hyderabad in C.C.No.1063 of 2000 was confirmed.

The revision petitioner herein is the accused, who was found guilty for the offence punishable under Section 138 of Negotiable Instruments Act; convicted and sentenced to undergo simple imprisonment for a period of six (6) months and to pay compensation of Rs.2,00,000/- to the complainant under Section 357 of Cr.P.C.

Aggrieved by the conviction and sentence passed by the trial Court, the petitioner/accused preferred an appeal No.117 of 2004 before the Sessions Court, and the same was dismissed confirming the conviction and sentence passed by the trial Court. Aggrieved by the concurrent findings of both the Courts below, the present revision is preferred.

Sri M.Praveen Kumar, learned counsel for the petitioner, represented that Sri K.Narasimha Rao – revision petitioner

expired on 28.04.2012 and filed death certificate issued by Greater Hyderabad Municipal Corporation along with memo and contended that when the revision petitioner was expired, the revision is liable to be dismissed as abated.

The Apex Court in “**P.K.Mitra v. State of W.B.**”¹ held that in the absence of any specific provision in the Code, the power has to be exercised according to the exigencies of each case. The High Court is not bound to entertain an application in revision or having entertained one to order substitution in every case. It is not bound the other way, namely, treat the pending application in revision as having abated. The High Court has been left complete discretion to deal with a pending matter of the death of the revisionist in accordance with requirements of justice.

The Allahabad High Court in “**Ashiq Mohammad v. Emperor**”² held that after the death of the revisionist, the High Court, can *suo motu* continue with the revision petition if the record of the case shows that there is sufficient reason to do so.

In “**State of Kerala v. Narain Sharma**”³ the Apex Court held that the High Court can exercise revisional powers against conviction even after the death of the convicted person.

¹ AIR 1959 SC 144

² AIR 1936 A 313

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In view of the law declared by the Apex Court in the said decision, the High Court can exercise revisional powers against conviction even after the death of the convicted person.

In view of the law declared by the Apex Court in the judgements referred above, the revision cannot be dismissed as abated in toto.

The trial Court found the revision petitioner/accused guilty for the offence punishable under Section 138 of Negotiable Instruments Act, convicted and sentenced him to undergo simple imprisonment for a period of six (6) months and to pay compensation of Rs.2,00,000/- to the complainant under Section 357 of Cr.P.C. In such case, on account of death, substantive sentence of imprisonment would go while the legal representatives of the revisionist are liable to pay compensation awarded by the Courts below. In such case, the course open to the Court is to recover compensation by invoking Section 421 of Cr.P.C. Hence, I find no ground to reverse or set aside the conviction and sentence passed by the trial Court.

In the result, the revision is disposed of while confirming the conviction and sentence imposed against the revision petitioner and permitting the respondent – complainant to proceed and recover the compensation amount awarded by the trial Court as per the procedure contemplated under Section 421 of Cr.P.C.

The miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE M. SATYANARAYANA MURTHY

14.09.2017
Ksp

