

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL REVISION CASE No.1078 of 2006

ORDER:

Aggrieved by the judgment dated 06.04.2006, in C.C.No.225 of 2001 on the file of the Judicial First Class Magistrate, Chilakaluripet, whereby and whereunder, the learned Magistrate recorded conviction under Section 255 (2) of the Code of Criminal Procedure, 1973 (for short, 'the Code') for the offence under Section 138 of Negotiable Instruments Act (for short, 'the Act') and sentenced the accused to pay a fine of Rs.5,000/-, with default sentence to suffer Simple Imprisonment for six months, and also to pay an amount of Rs.10,000/- to the complainant towards compensation under Section 357 (3) of the Code, the present Criminal Revision Case is preferred by the complainant under Sections 397 and 401 of the Code.

Heard Sri Sricharan Telaprolu, learned counsel for the revision petitioner - complainant, and Sri V. Hanumantha Rao, learned counsel for respondent No.2 - accused.

The main submission of the learned counsel for the revision petitioner is that as against the cheque amount of Rs.80,000/-, only an amount of Rs.10,000/- was awarded as compensation by the learned Magistrate. Learned counsel would also submit that, though, the penal provision provides maximum sentence of imprisonment extending upto two years and awarding compensation double the cheque amount, a flea-bite sentence is imposed on the accused.

Learned counsel for respondent No.2, on the other hand, resists the request of the revision petitioner supporting the judgment under challenge.

Without entering into the arena of merits in relation to the fact-situation occurring in the present case, when looked at the sentencing process, at the time of questioning the quantum of sentence by the learned Magistrate, the accused represented that he had undergone bi-pass surgery and his old aged mother is bedridden. He has also stated that his wife was not doing well and he has to look after his family and that he was the sole bread earner of his family. The learned Magistrate referred to the ruling relied on by the learned counsel for the complainant and, having heard the learned counsel for both parties, assigned the reasons that the record would disclose that the suit in O.S.No.272 of 2001 was decreed against the accused as per Ex.P1; that the intention of the legislation is to curb the issuance of cheques without having funds in the accounts; and that the right of the holder of Negotiable Instruments is always there on civil side, but it does not exclude him to request the court to award compensation. The learned Magistrate also observed that the medical certificate placed before him by the accused shows that the accused was suffering with HTN and IHD (Ischemic Heart Disease) and has undergone coronary angiogram on 06.06.2005 and requires regular checkup. Further, observing that the well settled proposition is that the provisions of Section 138 of the Act are engrafted to regularise the human conduct

i.e., issuance of cheques without funds, the learned Magistrate inflicted the sentence and also awarded the compensation as stated in the above.

It is no doubt true if looked extrinsically, the sentence appears to be a flea-bite sentence, but the reasons assigned by the learned Magistrate in just imposing fine and awarding compensation of Rs.10,000/- cannot be faulted, more particularly, when a decree was already obtained by the revision petitioner for realisation of the decretal amount, further more, particularly, when the learned counsel for the revision petitioner is not clear whether the decree was satisfied or still proceedings are pending. There is no merit in the present revision case.

Accordingly, the present Criminal Revision Case is dismissed.

Miscellaneous Petitions, if any, pending in the present revision case, stand closed.

A. SHANKAR NARAYANA, J

27.12.2017
v v