

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRL.R.C.M.P. No.4567 OF 2017

AND

CRL. R. C. No.2800 OF 2017

COMMON JUDGMENT:

Petitioner - respondent No.1 - complainant and respondent No.1 - revision petitioner - accused in Crl.R.C.M.P. No.4567 of 2017 are present along with their counsel, Sri K. Surya Prakash and Sri P. Vinod Lal, respectively.

2. The learned XIV Special Magistrate, Hyderabad, convicted the revision petitioner under Section 255 (2) of the Code of Criminal Procedure, 1973, (for short 'Code') in Calendar Case No.93 of 2012 (Old Calendar Case No.551 of 2011) for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (for short 'Act, 1881'), and sentenced him to undergo rigorous imprisonment for one year and to pay fine of Rs.5,000/- and in default to pay fine amount, to undergo simple imprisonment for a period of three months. The said order of conviction was recorded on 11.10.2012.

3. When the revision petitioner carried the matter to the lower appellate Court, the learned Additional Metropolitan Sessions Judge for trial of Communal Offence Cases - cum - VII Additional Metropolitan Sessions Judge, Hyderabad, in Criminal Appeal No.1078 of 2012, by his judgment, dated 30.11.2015, dismissed the

appeal confirming the conviction recorded by the learned Magistrate, even maintaining sentence of imprisonment and fine.

4. Aggrieved over the same, the aforesaid Criminal Revision Case is filed.

5. Sri P. Vinod Lal, learned counsel for the revision petitioner - accused, and Sri K. Surya Prakash, learned counsel for respondent No.1 - complainant would submit that the revision petitioner - accused and respondent No.1 - complainant entered into compromise at the instance of elders and settled the dispute. Thus, Crl.R.C.M.P. No.4567 of 2017 is filed under Section 147 of the Act, 1881. Both of them filed a joint memo along with the affidavit of complainant stating that they have entered into settlement and, therefore, to record the compromise and allow the present petition and consequently, to set aside the conviction recorded by the learned Magistrate as affirmed by the lower appellate Court.

6. They were identified by their counsel. Even with reference to Aadhar Cards, the Court Officer verified their identity.

7. In view of the law declared by the Hon'ble Supreme Court in **Damodar S. Prabhu v. Sayed Babalal H.**¹, the revision petitioner - accused shall pay 15% of the cheque amount i.e. Rs.30,000/-

¹. (2010) 5 SCC 663

(Rupees thirty thousand only) by way of costs to the State Legal Services Authority.

8. Accordingly, the learned counsel for the revision petitioner - accused has paid the amount of Rs.30,000/- towards 15% of the cheque amount that being Rs.2,00,000/- and filed a memo to that effect annexing thereto the receipt, dated 08.11.2017, passed by the High Court Legal Services Committee.

9. In view of the above, Crl.R.C.M.P.4567 of 2017 is allowed and, consequently, the Criminal Revision Case is disposed of in terms of compromise setting aside the conviction recorded by the Courts below including sentence of imprisonment and fine against the revision petitioner - accused.

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

A. SHANKAR NARAYANA, J

November 08, 2017.

Mgr