

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRL.R.C.M.P. No.4634 OF 2017

AND

CRL. R. C. No.2844 OF 2017

COMMON JUDGMENT:

Petitioner-1st respondent-complainant and respondent No.1 - revision petitioner-accused in Crl.R.C.M.P. No.4634 of 2017 are present along with their counsel, Sri E. Satheesh Kumar and Sri Kuncham Maheswara Rao, respectively.

2. The learned Additional Judicial Magistrate of First Class, Tuni, convicted the revision petitioner under Section 255 (2) of the Code of Criminal Procedure, 1973, (for short 'Code') in Calendar Case No.173 of 2011 for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (for short 'Act, 1881'), and sentenced him to undergo simple imprisonment for three months. The said order of conviction was recorded on 30.04.2013.

3. When the revision petitioner carried the matter to the lower appellate Court, the learned XII-Additional Sessions Judge, Pithapuram, in Criminal Appeal No.275 of 2013, by his judgment, dated 09.08.2017, dismissed the appeal confirming the conviction recorded by the learned Magistrate, and maintained the sentence of imprisonment.

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

5. Sri Eerla Satheesh Kumar, learned counsel for the revision petitioner-accused, and Sri Kuncham Maheswara Rao, 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, CrI.R.C.M.P. No.4634 of 2017 is filed under Section 147 of the Act, 1881. Both of them filed a Joint Compromise Memo along with the affidavit of complainant stating that they have arrived at a 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 Aadhaar 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.2,250/- (Rupees Two thousand two hundred and fifty only) by way of costs to the High Court Legal Services Committee.

8. Accordingly, the learned counsel for the revision petitioner -accused has paid the amount of Rs.2,250/- towards 15% of the cheque amount that being Rs.14,834/- and filed a memo to that effect annexing thereto the Receipt No.932, dated 09.11.2017, issued by the High Court Legal Services Committee.

¹. (2010) 5 SCC 663

9. In view of the above, CrI.R.C.M.P.4634 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 against the revision petitioner-accused.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the Criminal Revision Case, shall stand closed.

November 10, 2017.
gbs

A. SHANKAR NARAYANA, J

