

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL R.C. M.P. No.5131 OF OF 2017

IN/AND

CRIMINAL REVISION CASE No.2932 OF 2017

COMMON JUDGMENT:

The learned III Additional Judicial Magistrate of First Class, Rajahmundry, convicted the revision petitioner - accused viz., Bandaru Srinivas, under Section 255 (2) of the Code of Criminal Procedure, 1973 (for short 'Code'), in C.C. No.174 of 2010 for the offence punishable under Section 138 read with Section 142 of Negotiable Instruments Act, 1881, and sentenced him to undergo simple imprisonment for a period of one year and also to pay an amount of Rs.1,00,000/- towards compensation to respondent No.2 herein - complainant viz., Annam Subba Sathyam, under Section 357(3) of the Code within one (1) month therefrom, and, in default, directed to undergo Simple Imprisonment for a period of three (3) months, by the judgment dated 09.06.2014.

2. When the revision petitioner carried the matter to the lower appellate Court i.e., the learned V Additional Sessions Judge, East Godavari District, Rajahmundry, the learned Sessions Judge dismissed the appeal by the judgment, dated 30.04.2016, in Criminal Appeal No.160 of 2014, confirming the conviction recorded and also maintaining the sentence of imprisonment inflicted by the learned

Magistrate along with the compensation awarded. Aggrieved over the same, the present Criminal Revision Case is preferred.

3. However, Criminal R.C. M.P. No.5131 of 2017 is filed by the complainant (respondent No.2) praying to permit him to compromise the matter with the revision petitioner by compounding the offence as they settled the matter by entering into compromise and accordingly requests to acquit the revision petitioner in view of the compromise by setting side the conviction and sentence imposed against him by the Courts below.

4. Sri N. Ravi Prasad, learned counsel for the revision petitioner - accused, and Sri K. Satyananda Rao, learned counsel for respondent No.2 - complainant, would submit that the parties entered into compromise at the instance of their elders and well-wishers and settled the dispute by paying a sum of Rs.1,00,000/- (Rupees one lakh only) to the complainant towards full and final settlement of the issue, and to that effect they have also filed a Joint Memo, signed by both parties as well as their counsel, stating that they have entered into settlement compromising the matter and, therefore, request to record the compromise and to allow the present revision and consequently, to set aside the conviction recorded including the sentence of imprisonment and the compensation awarded by the Courts below.

5. Both parties i.e., respondent No.2 - complainant viz., Annam Subba Sathyam, and the revision petitioner - accused viz., Bandaru Srinivas are present along with their respective counsel, Sri K. Satyananda Rao and Sri N. Ravi Prasad, and the parties are identified by their respective counsel. Even with reference to identity of the parties, they produced their “Aadhaar Cards” and the Court Officer verified their identity.

6. On being asked, the complainant and the revision petitioner report that they have compromised the matter by entering into the settlement as referred to above and, therefore, request to permit them to compromise the matter, record the compromise, compound the offence, and to allow the present revision by setting aside the conviction recorded against the revision petitioner by the Courts below.

7. Since both parties have affirmed the terms of the joint memo and request to record the compromise, and in view of the law declared by the Hon'ble Supreme Court in **Damodar S. Prabhu v. Sayed Babalal H.**¹, since the revision petitioner has paid an amount of Rs.15,000/- (Rupees fifteen thousand only) towards 15% of the cheque amount that being Rs.1,00,000/-, by way of costs to the Andhra Pradesh State Legal Services Authority, Nyaya Seva Sadan, City Civil Court Buildings, Hyderabad, and filed a memo to that

¹ (2010) 5 SCC 663

effect annexing the original receipt, dated 08.12.2017, Crl.R.C.M.P.5131 of 2017 is allowed recording compromise and accordingly, the offence registered against the revision petitioner - accused is compounded.

8. Consequently, the Criminal Revision Case is allowed in terms of the compromise recorded, setting aside the conviction recorded by the learned III Additional Judicial Magistrate of First Class, Rajahmundry, in C.C. No.174 of 2010, as affirmed by the learned V Additional Sessions Judge, East Godavari District, Rajahmundry, in Criminal Appeal No.160 of 2014, including the sentence of imprisonment inflicted on the revision petitioner viz., Bandaru Srinivas, and the compensation awarded to the complainant (respondent No.2 herein), and consequently the revision petitioner is acquitted of the offence punishable under Section 138 read with Section 142 of Negotiable Instruments Act, 1881. The revision petitioner shall be set at liberty forthwith, if he is not required in any other case.

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

A. SHANKAR NARAYANA, J

December 8, 2017.

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