

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRL.R.C.M.P. No.4550 OF 2017

IN/AND

CRL. R. C. No.2787 OF 2017

COMMON JUDGMENT:

Petitioner - respondent No.1 - complainant and respondent No.1 - revision petitioner - accused in Crl.R.C.M.P. No.4550 of 2017 are present along with their counsel, Sri O. Udaya Kumar and Sri Maheswara Rao Kuncham, respectively.

2. The learned Special Magistrate - cum - VI Additional Junior Civil Judge, Tirupati, convicted the revision petitioner under Section 255 (2) of the Code of Criminal Procedure, 1973, (for short 'Code') in S.T.C. No.78 of 2012 for the offence punishable under Sections 138 and 142 of the Negotiable Instruments Act, 1881 (for short 'Act, 1881'), and sentenced him to undergo simple imprisonment for a period of six months and to pay fine of Rs.5,000/- and in default to pay fine amount, to undergo simple imprisonment for a period of one month. The said order of conviction was recorded on 27.05.2013.

3. When the revision petitioner carried the matter to the lower appellate Court, the learned Special Sessions Judge - cum - IV Additional Sessions Judge, Tirupati, in Criminal Appeal No.174 of 2013, by his judgment, dated 05.06.2017, 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 Maheswara Rao Kuncham, learned counsel for the revision petitioner - accused, and Sri O. Udaya Kumar, 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.4550 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.7,575/- (Rupees

¹. (2010) 5 SCC 663

seven thousand five hundred and seventy five only) by way of costs to the State Legal Services Authority.

8. Accordingly, the revision petitioner - accused has paid the amount of Rs.7,575/- towards 15% of the cheque amount that being Rs.50,499/- to the High Court Legal Services Committee, and filed a memo to that effect annexing thereto the receipt, dated 09.11.2017.

9. In view of the above, Crl.R.C.M.P.4550 of 2017 is allowed compounding the offence registered against the accused. Consequently, the Criminal Revision Case is disposed of in terms of compromise recorded 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 09, 2017.
PV