

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL R.C. M.P. No.5231 OF 2017

IN/AND

CRIMINAL REVISION CASE No.2961 OF 2017

COMMON JUDGMENT:

The learned Special Magistrate, Nandyal, convicted the revision petitioner - accused viz., Kathi Mahanandi, under Section 255(2) of the Code of Criminal Procedure, 1973 (for short 'the Code'), by judgment dated 30.06.2016 in C.C. No.859 of 2014 for the offence punishable under Section 138 of Negotiable Instruments Act, 1881, and sentenced to undergo simple imprisonment for a period of four (4) months and also to pay an amount of Rs.3,00,000/- towards compensation to 2nd respondent herein - complainant viz., Gudipati Prasad, under Section 357(3) of the Code.

2. When the revision petitioner carried the matter to the lower Appellate Court, the learned V Additional District Judge, Kurnool at Nandyal, by judgment, dated 29.09.2017, dismissed Criminal Appeal No.195 of 2016, confirming the conviction recorded and sentence of imprisonment including compensation.

3. Aggrieved over the same, the present Criminal Revision Case is preferred.

4. Criminal R.C. M.P. No.5231 of 2017 is filed by 2nd respondent-complainant along with affidavit to permit him to compromise the matter with the revision petitioner by compounding the offence, as the matter is settled out of Court by giving the cheque amount in cash on 17.10.2017 to the complainant towards full and final settlement. To that effect they have also filed a Joint Memo, signed by both parties as well as their counsel and, therefore, request to record the compromise and to allow the present petition, 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., 2nd respondent - complainant viz., Gudipati Prasad, and the revision petitioner - accused viz., Kathi Mahanandi are present. The parties are identified by their respective counsel, Sri Naram Nageswara Rao and Sri B.D.Venkata Yadav. Even with reference to identity, 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 in the above and, therefore, request to permit them to compromise the matter, by recording the compromise and to 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, and the revision petitioner has paid an amount of Rs.36,450/- (Rupees thirty six thousand four hundred and fifty only) towards 15% of the compensation amount that being Rs.2,43,000/-, by way of costs to the High Court Legal Services Committee, vide receipt No.942 dated 18.12.2017, the Crl.R.C.M.P.5231 of 2017 is allowed recording the 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 by setting aside the conviction recorded by the trial Court as affirmed by the lower appellate Court including the sentence of imprisonment inflicted on the revision petitioner, and consequently the revision petitioner is acquitted of the offence. The bail bonds, if any, furnished by the revision petitioner shall stand cancelled. Joint Memo, filed by the parties, shall form part of the record.

¹ (2010) 5 SCC 663

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

A. SHANKAR NARAYANA, J

December 13, 2017

MVA

