

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL R.C. M.P. Nos.4732 AND 4733 OF OF 2017

IN/AND

CRIMINAL REVISION CASE No.2907 OF 2017

COMMON JUDGMENT:

The learned Additional Judicial Magistrate of First Class, Tuni, convicted the revision petitioner - accused, under Section 255 (2) of the Code of Criminal Procedure, 1973, (for short 'Code') in C.C. No.301 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 a period of six months, by the judgment dated 25.04.2013.

2. When the revision petitioner carried the matter to the lower appellate Court, the learned XII Additional Sessions Judge, Pithapuram, by the judgment, dated 24.07.2017, dismissed the appeal in Criminal Appeal No.250 of 2013, confirming the conviction recorded by the learned Magistrate, even maintaining sentence of imprisonment. Aggrieved over the same, the present Criminal Revision Case is preferred.

3. However, Criminal R.C. M.P. No.4732 of 2017 is filed by the complainant requesting to permit him to compromise the matter with the revision petitioner as they settled the matter by entering into

compromise. Accordingly, Criminal R.C. M.P. No.4733 of 2017 is also filed by the complainant requesting to acquit the revision petitioner in view of the compromise by setting side the conviction and sentence imposed against him by the Courts below and consequently to recall the non-bailable warrant pending against him in C.C. No.301 of 2011 issued by the trial Court.

4. Sri D.V. Chalapathi Rao, learned counsel for the revision petitioner - accused, and Sri Laxmaiah Kanchani, learned counsel for respondent No.2 - complainant, would submit that the revision petitioner and the complainant entered into compromise at the instance of their elders and well-wishers and settled the dispute in terms of '*Khararunama* dated 21.09.2017' and to that effect they have filed a 'Joint Memo' signed by both parties as well as their counsel in Criminal R.C. M.P. No.4733 of 2017 along with the affidavits of the revision petitioner and the complainant stating that they have entered into settlement compromising the matter and, therefore, to record the compromise and allow the present revision and consequently, to set aside the conviction including sentence of imprisonment recorded against the revision petitioner by the learned Magistrate which was affirmed by the lower appellate Court.

5. Both parties i.e., the revision petitioner - accused viz., Lagudu Srinivas and respondent No.2 - complainant viz., Polisetty Veera Venkateswara Rao are present along with their respective

counsel Sri D.V. Chalapathi Rao and Sri Laxmaiah Kanchani, and the parties are identified by their respective counsel. Even with reference to their “Aadhaar Cards” produced by the respective parties in proof of their identity, 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 referred to above and, therefore, request to permit them to compromise the matter, to record the compromise and to allow the present revision by setting aside the conviction recorded against the revision petitioner by the learned Magistrate which was affirmed by the learned lower appellate Court and consequently to recall the non-bailable warrant pending against the revision petitioner in C.C. No.301 of 2011 issued by the trial Court.

7. Since both parties have affirmed the terms of the joint memo and the settlement of ‘*Khararunama*’ 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.33,000/- (Rupees thirty three thousand only) towards 15% of the cheque amount that being Rs.2,20,000/-, 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 effect annexing thereto photostat

¹ (2010) 5 SCC 663

copy of the said receipt, dated 15.11.2017, Crl.R.C.M.P.4732 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, setting aside the conviction recorded by the Courts below including the sentence of imprisonment against the revision petitioner - accused.

9. Further, accordingly, Criminal R.C.M.P. No.4733 of 2017 is also allowed acquitting the revision petitioner for the charge laid against him, and consequently, the non-bailable warrant pending against the revision petitioner issued by the trial Court stands recalled.

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

A. SHANKAR NARAYANA, J

November 15, 2017.
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