

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRL.R.C.MP.No.4756 OF 2017

IN/AND

CRIMINAL REVISION CASE No.2781 OF 2017

COMMON ORDER:

The present revision case, under Sections 397 and 401 Cr.P.C., is filed assailing the judgment, dated 16.12.2013, rendered in Crl.A.No.98 of 2011 on the file of the learned VI Additional Sessions Judge, Godavarokhani, whereby and whereunder, the learned Sessions Judge has confirmed the judgment, dated 20.09.2011, rendered in C.C.No.712 of 2005 on the file of the learned Judicial Magistrate of First Class, Godavarikhani, convicting the petitioner – accused, under section 255 (2) Cr.P.C., for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, and sentencing him to undergo simple imprisonment for a period of six months.

2. However, Crl.R.C.MP.No.4756 of 2017 is filed by the revision petitioner requesting to record compromise on the ground that the amount of Rs.2,50,000/- was paid by his wife to respondent No.2 and respondent No.2 received the same. A Memorandum of Compromise is also entered into between the parties to that effect.

3. Sri Surendra Desai, learned counsel for the revision petitioner – accused, and Sri Radha Madhav, learned counsel for respondent No.2 – complainant, would submit that the revision petitioner and the complainant entered into compromise and settled the dispute and to that effect they have filed a 'Memorandum of

Compromise' vide USR No.42414 of 2017 signed by both parties as well as their counsel and, therefore, request to record compromise and allow the present revision case and consequently, set aside the conviction including the sentence of imprisonment recorded against the revision petitioner by the learned Magistrate, as affirmed by the learned lower appellate Court.

4. Learned counsel for the revision petitioner would further submit that on 19.10.2017, the revision petitioner is committed to the Superintendent, District Jail, Karimnagar, to serve out the sentence, having surrendered himself before the trial Court on committal warrant. He would also submit that wife of the revision petitioner paid Rs.2,50,000/- to the complainant, which was admitted by respondent No.2 – complainant.

5. Since, the revision petitioner is lodged in jail to serve out the sentence of simple imprisonment of six months inflicted by the trial Court, as affirmed by the lower appellate Court, his presence invariably has to be dispensed with.

6. The wife of revision petitioner and respondent No.2 – complainant viz., Goli Sahadev, are present along with their respective counsel, Sri Surendra Desai and Sri Radha Madhav, and the parties are identified by their respective counsel. The parties have filed their "Aadhaar Cards" in proof of their identity.

7. On being asked, the complainant and the wife of revision petitioner report that they have compromised the case by entering into the settlement referred to above and, therefore, request to permit them to compromise the case and to record the compromise and allow the present revision case by setting aside the conviction and sentence recorded against the revision petitioner by the trial Court, as affirmed by the lower appellate Court.

8. Both the parties have affirmed the terms of 'Memorandum of Compromise' and request to record the compromise, in view of the law declared by the Honourable Supreme Court in **Damodar S. Prabhu v. Sayed Babalal H.¹**. The revision petitioner has paid an amount of Rs.9,000/- (Rupees nine thousand only) towards 15% of the cheque amount that being Rs.60,000/-, by way of costs to the Telangana State Legal Services Authority, Nyaya Seva Sadan, City Civil Court Compound, Hyderabad, and filed a Memo to that effect annexing thereto the receipt, dated 16.11.2017. Hence, the offence registered against the revision petitioner – accused is compounded.

9. Therefore, Crl.R.C.M.P.No.4756 of 2017 is allowed compounding the aforesaid offence. Consequently, Criminal Revision Case is allowed, setting aside the conviction recorded and sentence of imprisonment inflicted on the revision petitioner by the learned Judicial Magistrate of First Class, Godavarikhani, in Calendar Case

¹ (2010) 5 SCC 663

No.712 of 2005, by judgment, dated 20.09.2011, for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, as confirmed by the learned VI Additional Sessions Judge, Godavarikhani, in Criminal Appeal No.98 of 2011, by judgment, dated 16.12.2013, and consequently, he is acquitted of the charge.

10. Since it is represented that the revision petitioner - accused is committed to the Superintendent, District Jail, Karimnagar, to serve out the sentence of imprisonment, he is directed to be released forthwith.

11. Miscellaneous Petitions, if any, pending in this revision case shall stand closed.

A. SHANKAR NARAYANA, J

November 16, 2017.
MD

