

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRL.R.C.MP.No.5240 OF 2017

IN/AND

CRIMINAL REVISION CASE No.3243 OF 2017

COMMON ORDER:

The present revision case, under Section 138 of Negotiable Instruments Act, is filed assailing the order, dated 13.09.2017, rendered in Crl.A.No.463 of 2015 on the file of the learned IV Additional Sessions Judge, East Godavari District, Kakinada, whereby and whereunder, the learned Sessions Judge has confirmed the judgment, dated 24.08.2015, rendered in C.C.No.242 of 2014 on the file of the learned V Additional Judicial Magistrate of First Class, Kakinada, 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 and also sentencing him to pay a fine of Rs.10,000/- and in default to pay fine amount to suffer simple imprisonment for one month.

2. However, Crl.R.C.MP.No.5240 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.

3. Sri Prakash Chakravarthy, learned counsel for the revision petitioner-accused, and Sri G.Chakravarthy, 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.47239 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. The revision petitioner and respondent No.2 – complainant viz., Kantam Veera Venkata Satya Nagesh Kumar, are present along with their respective counsel, Sri Prakash Chakravarthy and Sri G.Chakravarthy, and the parties are identified by their respective counsel. The parties have filed their "Aadhaar Cards" in proof of their identity.

5. On being asked, the complainant and the 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.

6. 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.18,000/- (Rupees eighteen thousand only) towards 15% of the cheque amount that being Rs.1,20,000/-, by way of costs to the Telangana State Legal Services Authority, Nyaya Seva Sadan, City Civil Court Buildings, Hyderabad, and filed a Memo to that effect annexing thereto the receipt, dated 15.12.2017. Hence, the offence registered against the revision petitioner – accused is compounded.

7. Therefore, CrI.R.C.M.P.No.5240 of 2017 is allowed compounding the aforesaid offence. Consequently, the Criminal Revision Case is allowed, setting aside the conviction recorded and sentence of imprisonment inflicted on the revision petitioner by the learned V Additional Judicial Magistrate of First Class, Kakinada, in Calendar Case No.242 of 2014, by judgment, dated 24.08.2015, for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, as confirmed by the learned IV Additional Sessions Judge, East Godavari District, Kakinada in Criminal Appeal No.463 of 2015, by judgment, dated 13.09.2017, and consequently, he is acquitted of the charge.

¹ (2010) 5 SCC 663

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

A.SHANKAR NARAYANA, J

December 15th, 2017.
ssp

