

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

I.A.Nos.2 & 3 of 2018

in/and

Criminal Appeal No.1155 of 2015

COMMON JUDGMENT:

I.A.Nos.2 & 3 of 2018 are filed by the petitioner-*de facto* complainant to permit him to compound the offence under Section 138 of the Negotiable Instruments Act (for short, 'the Act') and compound the offence and set aside the conviction judgment in Criminal Appeal No.465 of 2013 passed by the learned Additional Metropolitan Sessions Judge for trial of communal offence cases-cum-VII Additional Metropolitan Sessions Judge, Hyderabad dated 17.11.2015.

2. The Criminal appeal maintained is against the conviction judgment passed in Criminal Appeal No.465 of 2013 passed by the learned Additional Metropolitan Sessions Judge for trial of communal offence cases-cum-VII Additional Metropolitan Sessions Judge, Hyderabad dated 17.11.2015. It was in the criminal case outcome of a private complaint for the offence punishable under Section 138 of the Act vide C.C.No.424 of 2009 for the so-called dishonour of the respective three cheques in question for a total of Rs.2,50,000/-. The trial Court by judgment dated 16.04.2013 acquitted the accused. The complainant maintained Criminal Appeal No.465 of 2013

before the lower appellate Court supra and the lower appellate Court reversed the said acquittal judgment and found him guilty for the offence supra and convicted and sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs.2,50,000/- and of which Rs.2,45,000/- is awarded to the complainant towards compensation and granted two months time with default sentence of three months if not paid the fine. The present appeal is against the said conviction judgment of the lower appellate Court dated 17.11.2015.

3. Pending the appeal, I.A.Nos.2 & 3 of 2018 are filed by the *de facto* complainant-respondent No.1 to the appeal to permit to compound the offence and to set aside the conviction judgment supra. The *de facto* complainant and appellant are present and requested to compound the offence stating settled outside the Court.

4. As per the expression of the Apex Court, the compounding can be permitted subject to payment of fine of 10% and discretion is granted to the Court, if at all to reduce in exceptional circumstances. The parties stated that they settled the respective cheque amounts outside the Court from settlement of the accounts.

5. Taking into consideration of those facts, this Court by docket order in I.A.No.2 of 2018 dated 09.07.2018 for compounding imposed 8% of the total amount covered by respective cheques to the Chief Justice Relief fund by granting time to file proof of payment by 23.07.2018.

6. Pursuant to the docket order in I.A.No.2 of 2018 dated 09.07.2018 in the present appeal, from the conditional order complied with of the compounding fee paid, the offence is compounded and this Criminal Appeal is allowed acquitting the accused. The bail bonds are cancelled.

In the result, I.A.Nos.2 and 3 of 2018 are allowed and permitted to compound the offence and in view of the offence compounded, the lower appellate Court's conviction judgment in Criminal Appeal No.465 of 2013 dated 17.11.2015 is set aside by allowing the present appeal by acquitting the accused and by canceling the bail bonds forthwith consequently.

Consequently, miscellaneous petitions pending, if any, shall stand closed.

Dr. B.SIVA SANKARA RAO, J

23.07.2018
MVA