

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

I.A.NO.1 OF 2018 IN/AND CRIMINAL REVISION CASE NO.364 OF 2016

ORDER:

This Criminal Revision Case is filed under Sections 397 and 401 Cr.P.C., challenging the judgment, dated 29-01-2016 passed in CrI.A.No.34 of 2015, by the III Addl. Sessions Judge, Guntur, whereunder and whereby the judgment, dated 13.01.2015 passed in C.C.No.131 of 2013 by the Principal Junior Civil Judge, Mangalagiri, in convicting the accused for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the Act') and sentencing him to undergo simple imprisonment for a period of six months and also to pay a fine of Rs.5,000/-, in default to undergo simple imprisonment for a period of three months, were confirmed.

2. I.A.No.1 of 2018 is filed by the complainant seeking permission to compromise the matter between the petitioner and the 1st respondent herein in CrI.R.C.No.364 of 2016..

3. The accused and the complainant appeared before this Court along with their counsel and submit that both parties have compromised the matter.

4. Learned counsel for the accused submits that the accused has paid 10% of compounding fee in view of judgment rendered by the apex Court reported in *Damodar Prabhu v Sayad Babulal*.¹

5. There is a provision under Section 147 of the Act, wherein every offence punishable under this Act is compoundable. In view of the above provision, the compromise is recorded.

6. Having regard to the facts and circumstances of the case and also the factum of settlement arrived at

¹ 2010 (5) SCC 663

between the parties and since the offence punishable under Section 138 of the Act is compoundable in nature, there is no impediment to set aside the conviction and sentence recorded against the accused.

7. Accordingly, I.A.No.1 of 2018 is ordered. Consequently, the Criminal Revision Case is allowed, setting aside the conviction and sentence recorded against the petitioner-accused by the Principal Junior Civil Judge, Mangalagiri, vide judgment, dated 13.01.2015 in C.C.No.131 of 2013 and as confirmed by the learned III Addl. Sessions Judge, Guntur, vide judgment, dated 29.01.2016 in CrI.A.No.34 of 2015. The accused is acquitted of the offence punishable under Section 138 of the Act. The bail bonds of the accused shall stand cancelled. Miscellaneous petitions, if any pending in the Criminal Revision Case, shall stand closed.

GUDISEVA SHYAM PRASAD, J

DATED: 20-12-2018

Hsd