

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

I.A.No.2 of 2018 in CrI.R.C.No.787 of 2018

and

CrI.R.C.No.787 of 2018

Common Order:

The *defacto* complainant and his counsel Smt. A.Chayadevi are present. Accused and his counsel Sri S.Raja Sekhar are present. Both the parties are identified by their respective counsel.

2) This Criminal Revision Case is filed by the petitioner aggrieved by the judgment dated 04.02.2014 in CrI.A.No.122 of 2011 passed by the III Additional Metropolitan Sessions Judge, Hyderabad, whereby and whereunder the learned Judge convicted the petitioner/accused for the offence under Section 138 of N.I.Act, by confirming the judgment dated 22.02.2011 in C.C.No.327 of 2009 passed by XIX Additional Chief Metropolitan Magistrate, Hyderabad.

3) When the matter was taken up for hearing both the parties filed joint memo dated 23.03.2018 submitting that both the parties have settled their disputes out of the Court and they propose to compound the case and therefore, the *de facto* complainant has no objection to allow the Criminal Revision Case and set aside the conviction and sentence passed by the XV Additional Judge-cum-XIX Additional Chief Metropolitan Magistrate, Hyderabad in C.C.No.327 of 2009 and confirmed by III Additional Metropolitan Sessions Judge, Hyderabad in CrI.A.No.122 of 2011 against the accused.

4) On enquiry both the parties have confirmed the contents in joint memo filed by them to compound the case. The revision petitioner informed this Court that previously he was doing as auditor and now he has no avocation and therefore, he prayed to reduce the cost to be imposed for compromise.

5) Sofaras the compliance of the guidelines in the decisions in *Damodar S. Prabhu v. Sayed Babala*¹ and *R. Vijayan v. Baby*² are concerned, having regard to the clarification given in the subsequent decision reported in *Madhya Pradesh State Legal Services Authority, vs. Prateek Jain and another*³, stating that if there is a special/specific reason to deviate from the guidelines given in *Damodar S. Prabhu* (1 supra), the Court is not remediless as *Damodar S. Prabhu* (1 supra) itself has given discretion to the concerned Court to reduce the costs with regard to specific facts and circumstances of the case, this Court taking into consideration the financial status as narrated by his counsel, directed the petitioner/accused to deposit 10% of the cheque amount instead of 15% as directed in *Damodar S. Prabhu* (1 supra). Accordingly, learned counsel for petitioner submitted that petitioner/accused paid a sum of Rs.30,000/- (10% of the cheque amount) to the High Court Legal Services Committee, Hyderabad, by way of Demand Draft bearing No.236362 drawn in favour of the Secretary,

¹ (2010) 5 SCC 663

² (2012) 1 SCC 260

³ (2014) 10 SCC 690

High Court Legal Services Committee vide Receipt No.967 dated 23.03.2018.

6) In that view of the matter, Joint Memo dated 23.03.2018 filed by the parties is allowed and the petitioner/accused and 1st respondent/complainant are permitted to compound the offence. Consequently, the Criminal Revision Case is allowed by setting aside the conviction and sentence passed by the learned XV Additional Judge-cum-XIX Additional Chief Metropolitan Magistrate, Hyderabad in C.C.No.327 of 2009 and confirmed by III Additional Metropolitan Sessions Judge, Hyderabad in CrI.A.No.122 of 2011 and the petitioner/accused is acquitted of the offence for which he was found guilty. His bail bonds shall stand cancelled. The Joint Memo filed by the parties shall form part of this order.

7) Hence, Joint Memo dated 23.03.2018 is allowed and the petitioner/accused and 1st respondent/complainant are permitted to compound the offence. Consequently, the Criminal Revision Case is allowed by setting aside the conviction and sentence passed by the XV Additional Judge-cum-XIX Additional Chief Metropolitan Magistrate, Hyderabad in C.C.No.327 of 2009 and confirmed by III Additional Metropolitan Sessions Judge, Hyderabad in CrI.A.No.122 of 2011 and the petitioner/accused is acquitted of the offence for which he was found guilty. The Joint Memo filed by the parties shall form part of this order.

8) It is informed by the learned counsel for petitioner that now the petitioner/accused is lodged in Central Prison, Chanchalguda for serving the

sentence in C.C.No.327 of 2009 on the file of XV Additional Judge-cum-XIX Additional Chief Metropolitan Magistrate, Hyderabad. Hence, the Superintendent, Central Prison, Chanchalguda is directed to set him free, if he is not required in any other case.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

U.DURGA PRASAD RAO, J

Date: 23.03.2018
Murthy

