

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

CRIMINAL REVISION CASE No.1675 OF 2006

ORDER:

This revision is filed aggrieved by the Judgment dated 17.08.2006 in Criminal Appeal No.61 of 2006 on the file of the IV Additional Sessions Judge, Warangal.

2. Heard learned counsel for the petitioner/accused, learned Additional Public Prosecutor for the 1st respondent-State. There is no representation on behalf of respondent No.2/*de facto* complainant. Perused the record.

3. Learned counsel for the petitioner would submit that after pronouncement of judgment of the appellate Court, an agreement was entered into between the parties to the litigation on 23.08.2006 to resolve the dispute pending in this criminal revision. Learned counsel for the petitioner could not communicate the petitioner with regard to posting of this case for want of telephone numbers, etc. He made a request that the case may be referred to Lok Adalat for settlement. Learned counsel contended that both the Courts below erred in finding that the petitioner is guilty of the offence punishable under Section 138 of Negotiable Instruments Act and imposed sentence of imprisonment.

4. It is evident from the record that this criminal revision case is filed in the year 2006. During all these years (twelve), the petitioner did not make any effort to get this matter referred to Lok Adalat and get settle the same pursuant to the agreement said to have entered into between the parties on 23.08.2006. Further, there is no iota of material to substantiate that there is

compromise between the parties to the impugned proceedings, as contended lastly. When this matter was posted for final hearing on 10.04.2018, an adjournment was sought and again, the matter is posted to today for final hearing. In view of these circumstances, this Court do not find any possibility of amicable settlement between the parties to refer the matter to Lok Adalat as requested and the Criminal Revision Case is required to be disposed of on merits.

5. As seen from the evidence of P.W.1 and D.W.1, and Exs.P1 to P9 and Exs.D1 to D6, that the accused borrowed an amount of Rs.1,00,000/- under Ex.P1 and gave Ex.P2 impugned cheque bearing No.163472 dated 19.07.2003 for Rs.1,84,000/- towards payment of amount due. The said cheque was returned with an endorsement that the account was closed on 01.07.2002. There is also legal notice dated 25.07.2003 demanding the payment of cheque amount, the same has not been complied with.

6. In view of the circumstances and the documents, it cannot be held that there is no legally enforceable debt and the impugned cheque Ex.P2 was not given towards discharge of legally enforceable debt. Both the Courts below appreciated all the facts and circumstances of the case and ultimately, found the accused guilty of the offence punishable under Section 138 of the Negotiable Instruments Act. As per the evidence on record, the accused had borrowed Rs.1,00,000/- and paid Rs.50,000/-. There is no evidence to substantiate the same. The Court below did not consider any inadmissible evidence. There is no omission on the part of the Court in appreciating all the facts and circumstances of

the case. There is ample evidence to sustain conviction and sentence awarded for the offence punishable under Section 138 of the Negotiable Instruments Act. There is no miscarriage of justice to interfere with the impugned order. There is nothing to take a different view. The criminal revision case is devoid of merit and it is liable to be dismissed.

7. In the result, the Criminal Revision Case is dismissed.

The Miscellaneous Petitions, if any, pending shall stand closed.

18th April, 2018.
ssp

Dr. SHAMEEM AKTHER, J

