

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

CRIMINAL REVISION CASE NO.1269 OF 2006

ORDER:

This revision is filed by the petitioner-accused under Sections 397 and 401 Cr.P.C. challenging the judgment, dated 04.07.2006 in CrI.A.No.60 of 2005 on the file of the VIII Addl. District Judge-cum-FTC-Vijayawada, in confirming the conviction of the accused for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the Act') and sentencing him to undergo rigorous imprisonment for six months and to pay a fine of Rs.5,000/-, in default to suffer simple imprisonment for one month, recorded by the III Metropolitan Magistrate, Vijayawada, vide judgment, dated 04.02.2005 in C.C.No.984 of 2002.

2. There was no representation on behalf of the petitioner-accused on 02.04.2018. Despite posting the matter today under the caption 'for dismissal', none appeared and there is no representation on behalf of the petitioner-accused. Under these circumstances, it is appropriate to dispose of the revision on merits.

3. As per the evidence on record, Ex.P1-cheque for Rs.30,784/-was given to repay the outstanding amount, which was due from the accused towards sale proceeds of the fertilizers supplied by the complainant. When the said cheque was presented in the bank for encashment, the same was returned with an endorsement 'funds insufficient'. Ex.P2 is the cheque return memo. In spite of issuance of legal notice under Ex.P4, the amount covered under Ex.P1-cheque was not paid. Ex.P5-acknowledgement shows the service of notice. Ex.P6 is the copy of account maintained by the complainant.

4. In view of evidence of P.W.1 and Exs.P1 to P6, it cannot be said that there was no legally enforceable debt and Ex.P1 was not issued to repay the amount due to the complainant by the accused. Both the Courts below rightly found the accused guilty for the offence punishable under Section 138 of the Act basing on the oral and documentary evidence. There is no mis-carriage of justice. There is no infirmity in the judgments of the Courts below so as to take a different view than the one taken by the Courts below. The revision is devoid of merit and is liable to be dismissed.

5. Accordingly, the Criminal Revision Case is dismissed confirming the judgment, dated 04.07.2006 in CrI.A.No.60 of 2005 on the file of the VIII Addl. District Judge-cum-FTC-Vijayawada Miscellaneous petitions, if any pending in this Revision shall stand closed.

DR.SHAMEEM AKTHER, J

DATED: 09-04-2018.

Hsd

