

THE HON'BLE Dr JUSTICE SHAMEEM AKTHER

Criminal Revision Case No.1001 of 2006

ORDER:

As there was no representation for the petitioners on 12.04.2018, the matter was directed to be listed today under the caption "For Dismissal". Even today, there is no representation for the petitioners. However, without waiting for the counsel for the petitioners to advance arguments, this Court can examine the material on record and pass appropriate orders.

2. This Criminal Revision Case, under Sections 397 & 401 of the Code of Criminal Procedure, 1973, is filed by the petitioners/accused, challenging the judgment, dated 08.06.2006, passed in CrI.A.No.421 of 2005 by the Additional Metropolitan Sessions Judge for the trial of Communal Offence cases – cum – VII Additional Metropolitan Sessions Judge, Hyderabad, whereby, the judgment, dated 09.12.2005, passed in C.C.No.8 of 2002 by the learned VI Additional Chief Metropolitan Magistrate, Hyderabad, convicting the petitioners/accused for the offence under Section 138 of the Negotiable Instruments Act, 1881, and sentencing them to undergo Rigorous Imprisonment for six months and to pay fine of Rs.2,000/-, was confirmed.

3. Both the Courts below have found the petitioners/accused guilty of the offence under Section 138 of the Negotiable Instruments Act, 1881 and imposed sentence of imprisonment and also fine. The case of the prosecution is that the complainant is a partnership firm doing business in manufacturing and marketing of Fly Ash bricks, blocks etc. The petitioner/A.1 is a proprietary concern and petitioner/A.2 is its proprietor.

The petitioner/A.2 approached the complainant firm for supply of Fly Ask blocks (bricks) and the complainant supplied the material to the accused from time to time on credit basis. Ultimately, the accused became liable to pay an amount of Rs.1,82,172/- to the complainant. On demand, the accused paid Rs.1,00,000/- and issued four cheques for the balance amount of Rs.82,172/-. When those cheques were presented for payment, the said cheques returned unpaid due to insufficient funds in the account of the accused. Thereafter, there was exchange of notices between the parties to the litigation. Since the accused failed to pay the balance amount to the complainant in spite of several demands, the subject complaint was filed.

4. To substantiate the averments in the complaint, M.Venkata Rama Raju, partner and G.P.A. holder of the complainant's firm was examined as P.W.1 and Ex.P.1 – Cheque dated 04.07.2001 for Rs.25,000/-, Ex.P.2 – Cheque dated 29.09.2001 for Rs.25,000/-, Ex.P.3 – Cheque dated 15.10.2001 for Rs.25,000/-, Ex.P.4 – Cheque dated 31.10.2001 for Rs.12,172/-, Ex.P.5 – Cheque return Memo dated 05.11.2001, Ex.P.6 – Demand Notice dated 19.11.2001, Ex.P.7 – Postal receipts dated 09.11.2001, Ex.P.8 – Certificate of posting dated 19.11.2001, Ex.P.9 – Postal acknowledgement for the accused No.1 dated 21.11.2001, Ex.P.10 – Postal acknowledgement for the accused No.2 dated 21.11.2001, Ex.P.11 – Partnership Deed of the complainant firm, Ex.P.12 – Incorporation Certificate of the complainant firm, Ex.P.13 – G.P.A. dated 28.11.2000 executed in favour of P.W.1, and Ex.P.14 – Reply notice of the accused dated 05.12.2001 were marked on behalf of the complainant. No oral and documentary evidence was adduced on behalf of the accused.

5. The evidence of P.W.1 and the aforementioned exhibits proves the dishonour of the cheques under Exs.P.1 to P.4. These cheques were returned unpaid due to insufficient funds in the account of the accused. The cheques were given towards discharge of the legally enforceable debt by the accused. All the requirements of Section 138 of N.I.Act are satisfied. The findings of both the Courts below are based on evidence and the material on record. Both the Courts below neither admitted any inadmissible evidence nor acted upon the same. There is nothing to take a different view. There is no miscarriage of justice. The Criminal Revision Case is devoid of merit and is liable to be dismissed.

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

Miscellaneous petitions, if any, pending in this Criminal Revision Case, shall stand dismissed.

19th April, 2018
Bvv

Dr. SHAMEEM AKTHER, J

