

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

CRIMINAL REVISION CASE NO.611 OF 2006

ORDER:

This revision is filed by the petitioner-accused under Sections 397 and 401 Cr.P.C. challenging the judgment, dated 14.03.2006 in CrI.A.No.161 of 2004 on the file of the VII Addl. District and Sessions Judge (Fast Track Court), Krishna at Vijayawada, in confirming the conviction of the petitioner-accused for the offence punishable under Section 138 of the N.I. Act and sentencing him to undergo simple imprisonment for one year and to pay a fine of Rs.2,000/-, in default to suffer simple imprisonment for one month, recorded by the V Metropolitan Magistrate, Vijayawada, vide judgment, dated 11.08.2004 in C.C.No.492 of 2001.

2. There was no representation on behalf of the petitioner on earlier two occasions i.e., on 19.03.2018 and 02.04.2018. Therefore, the matter was directed to be listed under the caption 'for dismissal' on 09.04.2018. On 09.04.2018, at request made by the learned counsel for the petitioner, the matter was listed today under the same caption. Today when the matter has come up, none appeared and there is no representation on behalf of the petitioner. Under these circumstances, this revision can be disposed of on merits.

3. Both the Courts below have found the accused guilty for the offence punishable under Section 138 of the N.I. Act basing on the evidence of P.W.1 and the documents Exs.P1 to P8. There is evidence of P.W.1 that the impugned cheque was given towards discharge of legally enforceable debt. The accused did not reply to the legal notice issued. Further, there is no denial of signature of the accused on the

acknowledgement showing the service of legal notice. The accused did not choose to enter into the witness box to rebut the presumption and genuineness of Ex.P2-cheque. Ex.P1 is the pronote, dated 27.05.2000, Ex.P2 is the dishonoured impugned cheque, dated 06.03.2001, Ex.P3 is the return memo, dated 23.03.2001, Ex.P4 is another return memo, Ex.P5 is office copy of regd. notice, dated 27.03.2001, Ex.P6 is the acknowledgment, dated 29.03.2001, Ex.P7 is the copy of account and Ex.P8 is the copy of the account of the accused.

4. The contention raised in this revision is that there is no legally enforceable debt. The Court below had not acted upon the legal evidence and the evidence on record do not make a case for the offence punishable under Section 138 of the N.I. Act.

5. In view of clear and cogent evidence of P.Ws. 1 and 2, both the Courts below rightly found the accused guilty for the offence punishable under Section 138 of the N.I. Act. There is no mis-carriage of justice. There is nothing to take a different view. The revision is devoid of merit and is liable to be dismissed.

6. Accordingly, the Criminal Revision Case is dismissed confirming the judgment, dated 14.03.2006 in CrI.A.No.161 of 2004 on the file of the VII Addl. District and Sessions Judge (Fast Track Court), Krishna at Vijayawada. Miscellaneous petitions, if any pending in this Revision shall stand closed.

DR.SHAMEEM AKTHER, J

DATED: 16-04-2018.

Hsd