

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

I.A.No.2 of 2018

in/and

Criminal Revision Case No.3307 of 2017

ORDER:

The Criminal Revision Case is filed under Sections 397 and 401 of Cr.P.C. assailing the judgment dated 14.03.2016 in CrI.A.No.91 of 2013 whereby the learned Special Sessions Judge-cum-X Additional District and Sessions Judge, Krishna at Machilipatnam while dismissing the said appeal had confirmed the judgment of conviction dated 25.03.2013 in C.C.No.319 of 2004 on the file of II Additional Judicial Magistrate of First Class, Machilipatnam.

2) In the pending criminal revision case, the petitioner-accused and the 2nd respondent-complainant filed I.A.No.2 of 2018 requesting the Court to permit them to enter into compromise and enable the 2nd respondent/complainant to withdraw the criminal revision case and accordingly acquit the petitioner-accused.

3) When the matter was taken up for hearing on 14.02.2018, the petitioner/accused and the 2nd respondent-complainant are present. The 2nd respondent/complainant produced copy of his identity proof and he is identified by his counsel. The petitioner/accused also present and she produced copy of her identify proof. The parties and their counsel stated that they have amicably settled the matter and further asserted the terms of the compromise. Thus, they sought permission to compound the offence and allow the criminal revision case and set

aside the judgment of the appellate Court whereby the judgment of the trial Court is confirmed and acquit the accused.

4) The 2nd respondent-complainant further stated that he received an amount of Rs.4,20,000/- towards full and final settlement and that no further amounts are due to him from the petitioner-accused.

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 anothe*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* 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 of the fact that accused is 51 years old lady and presently she is serving the sentence in this case and also considering of her financial problems as narrated by her counsel, directed the petitioner/accused to deposit 10% of the cheque amount instead of 15% as directed in *Damodar S. Prabhu*. Accordingly, the learned counsel for petitioner submitted that petitioner/accused paid a sum of Rs.45,840/- (10% of the cheque amount) to the High Court Legal Services Committee by way of Demand Draft bearing

¹ (2010) 5 SCC 663

² (2012) 1 SCC 260

³ (2014) 10 SCC 690

No.235818 drawn on the Secretary, High Court Legal Services Committee vide Receipt No.2355 dated 14.02.2018.

6) In the circumstances, I.A.No.2 of 2018 is allowed and the petitioner-accused and the 2nd respondent-complainant are permitted to compound the offence. Consequently, Criminal Revision Case is allowed and the judgment, dated 14.03.2016 of the learned Special Sessions Judge-cum-X Additional District and Sessions Judge, Krishna at Machilipatnam in CrI.A.No.91 of 2013 whereby the judgment of conviction dated 25.03.2013 of the learned II Additional Judicial First Class Magistrate, Machilipatnam in C.C.No.319 of 2004 was confirmed, is set aside and the petitioner-accused is acquitted of the offences for which she was found guilty. Her bail bonds shall stand cancelled. The Joint Memo filed by the parties shall form part of this order.

7) It is informed by the learned counsel for petitioner that now the petitioner/accused is lodged in Central Prison, Rajahmundry for serving the sentence in C.C.No.319 of 2004 on the file of II Additional Judicial Magistrate of First Class, Machilipatnam. Hence, the Superintendent, Central Prison, Rajahmundry is directed to set her free if she is not required in any other case.

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

U.DURGA PRASAD RAO, J

Date: 14.02.2018
Murthy