

HONOURABLE DR. JUSTICE B.SIVA SANKARA RAO

CrI.R.C.No.64 OF 2019

ORDER:

Impugning the docket order of the Court dated 16.10.2017, on maintainability of the application filed in CrI.M.P (SR) No.4738 of 2017 in C.C.No.227 of 2015 under Section 111 Cr.P.C., with the say that the respondent/complainant filed C.C.No.227 of 2015 against the petitioner/accused for the offence under Section 138 of the Negotiable Instruments Act, case was ended in conviction with six months rigorous imprisonment and fine of Rs.75,000/-, out of which Rs.70,000/- goes to the complainant as compensation and the remaining as fine to the State and for non-payment, with default sentence of three months simple imprisonment, CrI.A.No.348 of 2015 filed before the VI-Metropolitan Sessions Judge, Hyderabad at Nampally against said conviction judgment of the learned X-Special Magistrate, Hyderabad at Erramanzil and while the appeal was pending, the accused deposited the said fine amount and while so, the matter was settled in Lok Adalat vide Award dated 08.07.2017 of the Metropolitan Legal Services Authority Lok Adalat convened by Metropolitan Legal Services Authority, Hyderabad with one Judicial Member and two other Members and the settlement was to compound the offence and which is subject to payment of Rs.50,000/- through Cheque No.489641, drawn on Syndicate Bank and the settlement in compounding the offence, award passed, thereby the petitioner/accused sought for return of the said fine amount deposited that was returned on questioning maintainability. On the said return, this petition is filed, no doubt, against that return instead of representation, as the petition is

not maintainable as revision and because of the inherent power inheres in the Court also from the settled expressions, the same instead of return converted as petition under Section 482 Cr.P.C., and from

the presence of the accused and the complainant, for the petitioner and 2nd respondent in seeking to compound the offence in ordering to refund as per compounding of the offence under the Negotiable Instruments Act as per the expressions of the Apex Court, compounding fee is payable and in view of the settlement from their say that cheque was issued before the Lok Adalat for settlement, it was the understanding after receiving back from the Court Rs.70,000/-, Rs.50,000/- payable to the complainant, as compound fee is payable by levying Rs.20,000/- as compound fee to go to the Army Welfare Fund and by ordering from the compromise, payment of balance Rs.50,000/-, after adjustment of Rs.5,000/- fine to the State, to the complainant. By virtue of this order, the parties can approach the learned Magistrate, who shall implement the order in drawing the amount and paying Rs.50,000/- out of it to the complainant and remit the Rs.20,000/- compounding fee for the Army Welfare Fund while adjusting Rs.5,000/- already awarded to the State. The complainant is entitled to file cheque petition.

The criminal revision case is, accordingly, allowed.

Miscellaneous petitions, if any, pending stand closed.

Dr. B. SIVA SANKARA RAO, J

21st February, 2018

Lrkm

