

**THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM**

**I.A. Nos.2 and 3 of 2019**

**and**

**CRIMINAL REVISION CASE No.672 of 2019**

**COMMON ORDER:**

The present Criminal Revision Case is filed under Sections 397 and 401 of Cr.P.C., questioning the docket order dated 31.10.2018 passed by the learned V Additional Sessions Judge, Kothagudem, dismissing for default Criminal Appeal Petition No.173 of 2016 preferred by the petitioner/accused against judgment dated 27.09.2016 in C.C.No.56 of 2013, wherein the learned III Additional Judicial Magistrate of First Class, Kothagudem, convicted and sentenced him to undergo simple imprisonment for a period of one year and to pay a compensation of double the cheque amount i.e., Rs.4,00,000/-, in default, to undergo simple imprisonment for a period of two months.

A perusal of the material on record would show that the second respondent herein filed a private complaint against the petitioner for an offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the Act') and that the learned Magistrate vide judgment dated 27.09.2016 in C.C.No.56 of 2013 convicted the petitioner/accused and sentenced him to undergo simple imprisonment for a period of one year and to pay a compensation of double the cheque amount i.e., Rs.4,00,000/-, in default, to undergo simple imprisonment for

a period of two months. Challenging the same, the petitioner/accused preferred CrI.A.P.No.173 of 2016 before the learned V Additional Sessions Judge, Kothagudem. The learned Sessions Judge mainly due to non-appearance of the petitioner as well as the learned counsel on his behalf and not depositing the process, passed docket order dated 31.10.2018 dismissing the Criminal Appeal Petition for default. Aggrieved by the same, the present Criminal Revision Case is filed.

During pendency of the revision, the second respondent/complainant as well as the appellant/accused filed I.A.Nos.2 and 3 of 2019 seeking permission of the Court to compound the offence punishable under Section 138 of the Act and to record compromise by setting aside the docket order dated 31.10.2018 passed by the learned V Additional Sessions Judge, Kothagudem, in CrI.A.P.No.173 of 2016 preferred against the judgment dated 27.09.2016 passed in C.C.No.56 of 2013 by the learned III Additional Judicial Magistrate of First Class, Kothagudem. A joint memo signed by both the parties is also filed to that effect.

Today, the second respondent/complainant and appellant/accused are present and are identified by their respective counsel. When examined, the second respondent/complainant stated that he has settled the matter out

of the Court and he has no objection for acquittal of the appellant/accused in the above Criminal Revision Case.

Section 147 of the Act reads as under:

“Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), every offence punishable under this Act shall be compoundable”.

In view of the above provision of law, as there is a compromise arrived at between the parties and taking into consideration the circumstances, under which, the present I.A.s have been filed, permission for compounding the offence is accorded.

Accordingly, I.A.Nos.2 and 3 of 2019 are ordered. Consequently, this Criminal Revision Case is allowed by setting aside the docket order dated 31.10.2018 as well as the judgment dated 27.09.2016 in Criminal Appeal Petition No.173 of 2016 and C.C.No.56 of 2013, respectively, and the petitioner/accused is acquitted for the offence punishable under Section 138 of the Act.

Miscellaneous petitions, if any, pending in this revision shall stand closed.

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**CHALLA KODANDA RAM, J**

2<sup>nd</sup> JULY, 2019.

Note: issue c.c. by tomorrow.

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