

HONOURABLE JUSTICE G.SRI DEVI

CRIMINAL REVISION CASE No.2279 of 2016

ORDER:

This Criminal Revision Case is directed against the judgment of the learned XIV Additional District and Sessions Judge-cum-XIV Additional Metropolitan Sessions Judge, Ranga Reddy District at L.B.Nagar, in CrI.A.No.1149 of 2015, dated 30.08.2016, confirming the conviction and sentence of simple imprisonment for a period of six months and a compensation of Rs.2,50,000/- for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, imposed against the revision petitioner/accused by the learned Special Magistrate, Court No.III, Kukatpally at Miyapur, in C.C.No.324 of 2015, dated 16.12.2015.

Brief facts of the case are that the revision petitioner/accused had issued cheque bearing No.739331, dated 21.05.2015 for Rs.2,20,000/- to discharge the loan amount and when the said cheque was presented for realization, the same was returned unpaid with an endorsement 'account closed'. Thereafter, after following the procedure provided under Sections 138 and 142 of the Negotiable Instruments Act, the 2nd respondent/complainant filed the complaint and the same was taken on file by the trial Court.

During the course of trial, on behalf of the 2nd respondent/complainant, P.Ws.1 and 2 were examined and got marked Exs.P1 to P7 to prove the guilt of the accused. On behalf of the 2nd

respondent/ complainant, D.Ws.1 to 3 were examined and got marked Exs.D1 to D13. On a perusal of the entire evidence, both oral and documentary, the trial Court found the revision petitioner/ accused guilty of the offence punishable under Section 138 of the N.I. Act and accordingly convicted and sentenced him as stated supra.

In an appeal preferred by the revision petitioner/ accused against the said conviction and sentence, the learned Sessions Judge, confirmed the judgment of the trial Court and accordingly dismissed the appeal. Aggrieved by the same, the revision petitioner/ accused preferred this criminal revision.

Heard learned counsel for the revision petitioner/ accused, learned Additional Public Prosecutor for the 1st respondent-State and learned counsel for the 2nd respondent/ complainant.

On perusal of the entire evidence on record, this Court is of the view that the trial Court as well as the appellate Court has given sufficient and cogent reasons in convicting the revision petitioner/ accused. Therefore, no interference is warranted as far as conviction is concerned.

In *Somnath Sarka v. Utpal Basu Mallick*¹ the Apex Court held as under:

“That the Negotiable Instruments Act has not contemplated grant of compensation but envisages imposition of fine not exceeding twice the amount of

¹ (2014) 1 ALT CrI.145

dishonoured cheque and out of said fine amount, the complainant be compensated under Section 357 Cr.P.C. and that unlike for other forms of crime, the punishment here (insofar as the complainant is concerned) is not a means of seeking retribution, but is more a means to ensure payment of money. The complainant's interest lies primarily in recovering the money rather than seeing the drawer of the cheque in jail. The threat of jail is only a mode to ensure recovery. As against the accused who is willing to undergo a jail term, there is little available as remedy for the holder of the cheque."

Having regard to the facts and circumstances of the case and in view of the judgment of the Apex Court in *Somnath Sarka v. Utpal Basu Mallick* (1 supra), it would suffice to reduce the sentence of simple imprisonment of six months to fifteen days, while maintaining the compensation amount imposed against the revision petitioner/accused for the offence punishable under Section 138 of the N.I. Act.

With the above modification in the sentence of imprisonment, the Criminal Revision Case is disposed of. Miscellaneous petitions, if any, pending shall stand dismissed.

JUSTICE G. SRI DEVI

26.12.2019
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