

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL APPEAL No.291 OF 2014

JUDGMENT:

This Criminal Appeal, under Section 374 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.'), is filed by the appellant/accused aggrieved by the Judgment, dated 20.03.2014, rendered in Criminal Appeal No.187 of 2012 on the file of V Additional District and Sessions Judge (Fast Track Court), Ranga Reddy District, whereunder and whereby, the learned Sessions Judge confirmed the Judgment, dated 10.04.2012, in Calendar Case No.87 of 2011 on the file of VIII Special Magistrate, L.B.Nagar at Hasthinapuram, Ranga Reddy District, in convicting the 1st respondent/accused for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the Act') and sentencing him to undergo simple imprisonment for a period of one year and also to pay fine of Rs.6,00,000/-, in default to suffer simple imprisonment for six months.

2. Heard the learned counsel for the appellant/accused and the learned counsel for the 1st respondent/complainant. Perused the record.

3. The question that fell for consideration in this appeal is against the impugned judgment whether an appeal is maintainable?

4. In view of the circumstances of the case, it is appropriate to record the provisions of Section 372 Cr.P.C and also Section 374 (2) Cr.P.C.

"Section 372 Cr.P.C: No appeal to lie unless otherwise provided-

No appeal shall lie from any judgment or order of a criminal court except as provided for by this Code or by any other law for the time being in force.

Section 374 (2) Cr.P.C:

Any person convicted on a trial held by a Sessions Judge or an Additional Sessions Judge or on a trial held by any other court in which a sentence of imprisonment for more than seven years has been passed against him or against any other person convicted at the same trial may appeal to the High Court”.

As seen from the above provisions, the appeal is required to be filed as specified under Chapter-XXIX of Cr.P.C. An appeal to this Court lies on a conviction recorded by the Court of Sessions or Additional Court of Sessions in a trial held by that Court. Here, this appeal is not preferred before this Court on a conviction recorded by the Court of Sessions in a trial conducted by it. So, the provisions under Section 374 (2) Cr.P.C. debar to file an appeal before this Court. The appropriate remedy is revision, which has not been invoked by the appellant/accused herein. Therefore, it is held that the appeal is not maintainable. However, liberty is granted to the appellant/accused to workout the remedies available under law.

5. With these findings and observations, the Criminal Appeal is disposed of.

Miscellaneous Petitions, if any, pending in this Criminal Appeal shall stand closed.

Dr. SHAMEEM AKTHER, J

JANUARY 22, 2019
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