

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 496 of 2017**

- Abdul Hanif S/o Haji Abdul Gafur, Aged About 37 Years (Wrongly mentioned as Haji Abdul Gaffar in the impugned order), R/o Raza Masjid Road, In Front of Vrindavan Complex, Maudahapara, Raipur, Chhattisgarh., Chhattisgarh

---- Applicant**Versus**

1. Praveen Padmakar S/o Lalitram Padmakar, R/o House No.162, Sector- 5, Devendra Nagar, Raipur, District- Raipur, Chhattisgarh., Chhattisgarh ..Complainant
2. State of Chhattisgarh, Through District Magistrate, Raipur (C.G.)

---- Non-applicants

For Applicant : Shri Kishore Bhaduri and Shri Pawan Kesharwani, Advocates.

For Non-applicant No.1 – Shri Sachidanand Yadav and Shri Kashif Shakeel, Advocates.

For State/Non-applicant No.2: Shri Roshan Dubey, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order on Board

04/03/2020

1. This criminal revision has been brought against the judgment dated 27-04-2017 passed in Criminal Appeal No.232/2016 by the Additional Sessions Judge Raipur, District Raipur, Chhattisgarh dismissing the appeal filed against the judgment of conviction and sentence passed by the trial Court.
2. The applicant was prosecuted in complaint under Section 138 of Negotiable Instruments Act. After completion of the trial the applicant was convicted under Section 138 of Negotiable Instruments Act and sentenced with simple imprisonment for six months and a fine of Rs.10,000/- with default stipulation. The appeal preferred was dismissed by the impugned judgment.
3. It is submitted that the applicant has been falsely implicated in this

case. The presumption drawn against the applicant under Section 118 and 139 of Negotiable Instruments Act was incorrect. The applicant had no liability for which he would have issued the cheque in favour of non-applicant No.1. Therefore, grave error have been committed by the Courts below and hence, interference in the impugned judgment is prayed for.

4. Learned counsel for the non-applicant No.1 submits that he has no objection if the revision petition is allowed, for the reason that the applicant and the non-applicant No.1 have entered into a compromise and they have resolved all the disputes.
5. Learned State counsel appearing for non-applicant No.2 makes formal objection.
6. Heard learned counsel for the parties and perused the record of the Court below.
7. On perusal of the impugned judgment and also on perusal of the record of the trial Court, I am of this view that learned trial Court and learned appellate Court have not committed any error in passing the judgments. Therefore, conviction against the applicant needs no interference in this criminal revision. However, the sentence part needs consideration only for the reason, that now the applicant and non-applicant No.1/complainant have compromised with each other. Hence, for this reason this revision petition is partly allowed. The sentence of imprisonment imposed upon the applicant by the trial Court and confirmed by the appellate Court is now hereby set aside. The fine sentence imposed upon the applicant shall remain as it is.

Sd/-
(Rajendra Chandra Singh Samant)
 Judge