

HONOURABLE SRI JUSTICE K. LAKSHMAN

I.A. Nos.1 of 2019 and 1 OF 2020
IN/AND
CRIMINAL APPEAL No.659 OF 2015

COMMON JUDGMENT:

I.A. No.1 of 2019 is filed by the petitioner - 2nd respondent - Complainant seeking to permit the petitioner to compound the offence under Section 138 of the Negotiable Instruments Act, 1882, as the appellants and the petitioner compromised and settled the matter out of Court.

2. I.A. No.1 of 2020 is filed by the petitioner - 2nd respondent filed this application seeking to permit the petitioner enter into compromise with the appellants in the appeal.

3. The appellants/accused Nos.1 and 2 herein filed Crl.A. No.659 of 2015 under Section 374 (2) of the Code of Criminal Procedure, 1973, questioning the conviction and sentences imposed upon them by judgment, dated 01.06.2015, in Crl.A. No.429 of 2012 passed by the III Additional Metropolitan Sessions Judge, Hyderabad.

4. Vide the aforesaid judgment, the appellants - accused Nos.1 and 2 were found guilty of the offence under Section 138 of NI Act and were convicted under Section 255 (2) Cr.P.C., for the said offence and accordingly, the 1st accused, being the Company, was sentenced to pay a fine of Rs.5,000/- in default, the 2nd accused, Director of the 1st accused, has to undergo simple imprisonment for a period of two

months. The 2nd accused was sentenced to undergo simple imprisonment for a period of one year and also to pay compensation of Rs.11,87,364/- within one month from the date of that judgment, in default, to undergo simple imprisonment for six months. Aggrieved by the said judgment, appellants - accused Nos.1 and 2 preferred the present appeal.

5. During pendency of the aforesaid appeal, the 2nd respondent in the appeal, complainant, filed I.A. No.1 of 2019 seeking permission to compound the offence under Section 138 of the NI Act with the appellants – accused Nos.1 and 2, while I.A. No.1 of 2020 seeking permission to enter into compromise with the appellants – accused Nos.1 and 2.

6. The learned Additional Public Prosecutor representing respondent No.1 reported no objection for allowing the petitions.

7. It is submitted by both the learned counsel for the appellants as well as the 2nd respondent that during the pendency of the present appeal, both the appellants and the 2nd respondent have entered into an agreement and accordingly, the same was reduced in writing vide Memorandum of Understanding, dated 24.01.2020.

8. Perused the affidavits filed by the petitioner – 2nd respondent and the joint memo signed by both the parties. The contents thereof would disclose that the appellants – accused Nos.1 and 2 agreed to pay Rs.20,00,000/- to the 2nd respondent in all, towards full and final

settlement in respect of C.C. Nos.207, 208, 209, 210 and 211 of 2009 on the file of the XVIII Additional Chief Metropolitan Magistrate, Hyderabad. Out of the said amount of Rs.20,00,000/-, an amount of Rs.5,00,000/- was already paid in the year 2014 itself and an amount of Rs.5,00,000/- was transferred into the account of the 2nd respondent on 04.02.2019 and the balance amount of Rs.10,00,000/- was paid today to the 2nd respondent vide Demand Draft bearing No.001665, dated 09.01.2020 drawn on Karnataka Bank Ltd., Sanjaynagar, Bengaluru, for an amount of Rs.10,00,000/-. It is further disclosed that the 2nd respondent as well as the appellants - accused Nos.1 and 2 entered into compromise with the intervention of elders and well-wishers and accordingly, they prayed to allow the Criminal Appeal by setting aside the conviction and sentences recorded by the appellate Court, in terms of the compromise. The joint memo filed by the parties shall form part of the record.

9. Sri N. Sridhar – 2nd appellant, Director of the 1st appellant Company, is present in the Court. He is identified by his counsel. Sri Vinod Kumar Gambhir, Director of the 2nd respondent Company, is also present in the Court along with his counsel Sri J.V. Radhakrishna Murthy. The parties also produced self-attested Photostat copies of their “Aadhaar Cards” in proof of their identity and the same are verified with the originals.

10. Both Sri N. Sridhar – 2nd appellant, representing the 1st appellant Company and Sri Vinod Kumar Gambhir, Director of the

2nd respondent Company confirms the contents of Memorandum of Understanding, dated 24.01.2020, and they informed this Court that they have no complaints against each other.

11. In view of the said submissions and in view of handing over of the Demand Draft to the 2nd respondent in the present appeal, permission is granted to 2nd respondent to compound the offence under Section 138 NI Act and to compromise the matter.

12. Accordingly, I.A. No.1 of 2019 is allowed granting permission to compound the offence and I.A No.1 of 2020 is allowed granting permission to compromise the matter between the appellants and the 2nd respondent.

13. The Appeal is allowed setting aside the conviction and sentence of imprisonment imposed upon appellants - Accused Nos.1 and 2 vide judgment, dated 01.06.2012, in Crl.A. No.429 of 2012 passed by the III Additional Metropolitan Sessions Judge, Hyderabad, for the offence under Section 138 of the Negotiable Instruments Act. Accordingly, the appellants - accused Nos.1 and 2 are acquitted of the offence for which they were charged. The fine amount, if any, paid by the appellants shall be refunded to them. The bail bonds of the appellants shall stand cancelled. As a sequel, miscellaneous petitions, pending if any, shall stand closed.

K. LAKSHMAN, J

January 24, 2020

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