

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

**CRIMINAL REVISION CASE Nos.1712, 1713, 1714, 1715, 1716, 1717,
1718, 1719, 1720, 1721, 1723, 1726, 1789, 1790, 1825, 1826, 1827,
1828, 1829, 1830, 1831, 1832, 1833, 1835 and 1836 of 2006**

COMMON ORDER:

Since the parties and the issue involved in these Criminal Revision Cases are one and the same, they are being disposed of by this common order.

With respect to the dishonour of the cheques issued by respondent No.1-accused, the petitioner/complainant filed complaints against the accused for the offence punishable under Section 138 of the Negotiable Instruments Act (for short 'the Act'). Thereupon, the learned XIV Additional Chief Metropolitan Magistrate, Hyderabad, having found that the cheques were issued in discharge of legally enforceable liability and the same remained unpaid, passed separate orders convicting and sentencing the accused to pay a fine of Rs.5,000/-, in default to undergo simple imprisonment for a period of 30 days. Alleging that the fine amount is meager, the petitioner had challenged the said orders by way of filing these Criminal Revision Cases.

Learned counsel for the petitioner submits that notwithstanding the provisions of Section 138 of the Act provide for imposition of fine amount twice the cheque amount and despite the number of cases filed against the accused with respect to the same offence, the Court below without any justifiable reason, took a lenient view and imposed fine of Rs.5,000/-, which is grossly

inadequate. He placed reliance on the judgment of the Honourable Supreme Court in **Meters and Instruments Private Limited and another Vs. Kanchan Mehta**¹, and asserted that in the said judgment, the Honourable Supreme Court held that the offence punishable under Section 138 of the Act is primarily a civil wrong and that where the cheque amount with interest and costs, as assessed by the Court, is paid by a specified date, the Court may close the proceedings in exercise of its powers under Section 143 of the Act read with Section 258 Cr.P.C.

It may be noted that in **Somnath Sarkar vs. Utpal Basu Mallick and another**², the Honourable Supreme Court held that from out of the amount of fine, the compensation amount shall be paid to the complainant.

A perusal of the orders under revision clearly discloses that though cheque amounts are vary, ranging from Rs.7,980/- to Rs.39,921/-, fine imposed is only Rs.5,000/-, which is grossly inadequate. Further, the provisions of the Act itself provide for imposition of fine amount twice the cheque amount.

So far as issuance of notice under Section 401(2) Cr.P.C. in respect of respondent No.1 is concerned, it may be noted that in spite of receiving notices, respondent No.1 had not chosen to appear in person or through the learned counsel. In view of the same, inasmuch as these Revisions are filed for enhancement of punishment imposed upon respondent No.1 and notice was already sent to respondent No.1, the same shall be treated as the

¹ (2018)1 Supreme Court cases 560

² (2013) 16 SCC 465

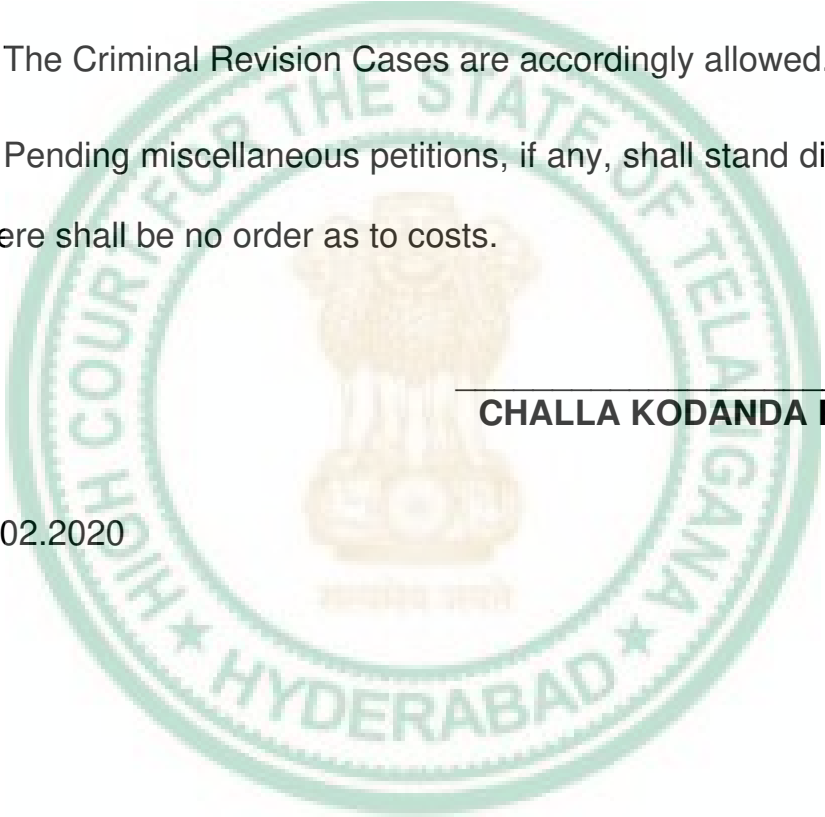
one issued under Section 401(2) Cr.P.C., as such, there is no separate notice required to be issued to respondent No.1.

In those circumstances, this Court finds it appropriate to enhance the fine amount double the cheque amount in each case.

Accordingly, in each case, the accused shall pay the fine amount double the cheque amount to the complainant after deducting a sum of Rs.5,000/-, in default, to undergo simple imprisonment for a period of thirty (30) days.

The Criminal Revision Cases are accordingly allowed.

Pending miscellaneous petitions, if any, shall stand disposed of. There shall be no order as to costs.



CHALLA KODANDA RAM, J

Dt:26.02.2020

kdl