HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

WEDNESDAY ,THE TWENTY SIXTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY

PRESENT

THE HONOURABLE 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 C.T IN CRL.R.C.No.1712, 1713, 1714, 1715, 1716, 1717, 1718, 1719, 1720, 1721, 1723, 1726, 1789, 1790 of 2006 :

Between:

M/s Om Surya Electronics Pvt. Ltd., Rep. by its Manager Arun Kumar, S/o Late Bhola Prasad, Office at 16, Model House, Punjagutta, Hyderabad

...PETITIONER/COMPLAINANT

AND

1. M/S A-Z Marketing Rep.by its Proprietor Zaher Ul Haq S/o Md. Mazhar-ul-Haq, R/o 20-4-29, New Bus Stand, Charminar, Hyderabad-2

...RESPONDENT/ACCUSED

2. Public Prosecutor, High Court of A.P., at Hyderabad.

...RESPONDENT

Crl.R.C.No.1712 of 2006 :

Criminal Revision Case filed Under Sections 397 & 401 of Cr.P.C against the Judgment made in C.C.No.1633 of 2003 dated 08.08.2006 on the file of the Court of the XIV Additional Chief Metropolitan Magistrate, Hyderabad.

CRL.R.C.No.1713 of 2006 :

Criminal Revision Case filed Under Sections 397 & 401 of Cr.P.C against the Judgment made in C.C.No.1642 of 2003 dated 08.08.2006 on the file of the Court of the XIV Additional Chief Metropolitan Magistrate, Hyderabad.

CRL.R.C.No.1714 of 2006 :

Criminal Revision Case filed Under Sections 397 & 401 of Cr.P.C against the Judgment made in C.C.No.1638 of 2003 dated 08.08.2006 on the file of the Court of the XIV Additional Chief Metropolitan Magistrate, Hyderabad.

CRL.R.C.No.1715 of 2006 :

Criminal Revision Case filed Under Sections 397 & 401 of Cr.P.C against the Judgment made in C.C.No.1639 of 2003 dated 08.08.2006 on the file of the Court of the XIV Additional Chief Metropolitan Magistrate, Hyderabad.

CRL.R.C.No.1716 of 2006 :

Criminal Revision Case filed Under Sections 397 & 401 of Cr.P.C against the Judgment made in C.C.No.797 of 2003 dated 08.08.2006 on the file of the Court of the XIV Additional Chief Metropolitan Magistrate, Hyderabad.

CRL.R.C.No.1717 of 2006 :

Criminal Revision Case filed Under Sections 397 & 401 of Cr.P.C against the Judgment made in C.C.No.798 of 2003 dated 08.08.2006 on the file of the Court of the XIV Additional Chief Metropolitan Magistrate, Hyderabad.

CRL.R.C.No.1718 of 2006 :

Criminal Revision Case filed Under Sections 397 & 401 of Cr.P.C against the Judgment made in C.C.No.1637 of 2003 dated 08.08.2006 on the file of the Court of the XIV Additional Chief Metropolitan Magistrate, Hyderabad.

CRL.R.C.No.1719 of 2006 :

Criminal Revision Case filed Under Sections 397 & 401 of Cr.P.C against the Judgment made in C.C.No.1635 of 2003 dated 08.08.2006 on the file of the Court of the XIV Additional Chief Metropolitan Magistrate, Hyderabad.

CRL.R.C.No.1720 of 2006 :

Criminal Revision Case filed Under Sections 397 & 401 of Cr.P.C against the Judgment made in C.C.No.1636 of 2003 dated 08.08.2006 on the file of the Court of the XIV Additional Chief Metropolitan Magistrate, Hyderabad.

CRL.R.C.No.1721 of 2006 :

Criminal Revision Case filed Under Sections 397 & 401 of Cr.P.C against the Judgment made in C.C.No.1646 of 2003 dated 08.08.2006 on the file of the Court of the XIV Additional Chief Metropolitan Magistrate, Hyderabad.

CRL.R.C.No.1723 of 2006 :

Criminal Revision Case filed Under Sections 397 & 401 of Cr.P.C against the Judgment made in C.C.No.1647 of 2003 dated 08.08.2006 on the file of the Court of the XIV Additional Chief Metropolitan Magistrate, Hyderabad.

CRL.R.C.No.1726 of 2006 :

Criminal Revision Case filed Under Sections 397 & 401 of Cr.P.C against the Judgment made in C.C.No.1632 of 2003 dated 08.08.2006 on the file of the Court of the XIV Additional Chief Metropolitan Magistrate, Hyderabad.

CRL.R.C.No.1789 of 2006 :

Criminal Revision Case filed Under Sections 397 & 401 of Cr.P.C against the Judgment made in C.C.No.1648 of 2003 dated 08.08.2006 on the file of the Court of the XIV Additional Chief Metropolitan Magistrate, Hyderabad.

CRL.R.C.No.1790 of 2006 :

Criminal Revision Case filed Under Sections 397 & 401 of Cr.P.C against the Judgment made in C.C.No.1634 of 2003 dated 08.08.2006 on the file of the Court of the XIV Additional Chief Metropolitan Magistrate, Hyderabad.

COMMON C.T. IN CRL.R.C.No.1825, 1826, 1827, 1828, 1829, 1830, 1831, 1832, 1833, 1835 and 1836 of 2006

Between:
M/s Om Surya Electronics Pvt. Ltd., Rep. by its Manager Arun Kumar, S/o Late Bhola Prasad, Office at 16, Model House, Punjagutta, Hyderabad

...PETITIONER/COMPLAINANT

AND

1. Zaher Ul Haq S/o Md. Mazhar-ul-Haq, Occ: Prop. M/s A-Z Marketing R/o 20-4-29, New Bus Stand, Charminar, Hyderabad-2

...RESPONDENT/ACCUSED

2. State of A.P., Rep.by its Public Prosecutor, High Court of A.P., at Hyderabad.

...RESPONDENT

CRL.R.C.No.1825 of 2006 :

Criminal Revision Case filed Under Sections 397 & 401 of Cr.P.C against the Judgment made in C.C.No.750 of 2003 dated 08.08.2006 on the file of the Court of the XIV Additional Chief Metropolitan Magistrate, Hyderabad.

CRL.R.C.No.1826 of 2006 :

Criminal Revision Case filed Under Sections 397 & 401 of Cr.P.C against the Judgment made in C.C.No.746 of 2003 dated 08.08.2006 on the file of the Court of the XIV Additional Chief Metropolitan Magistrate, Hyderabad.

CRL.R.C.No.1827 of 2006 :

Criminal Revision Case filed Under Sections 397 & 401 of Cr.P.C against the Judgment made in C.C.No.747 of 2003 dated 08.08.2006 on the file of the Court of the XIV Additional Chief Metropolitan Magistrate, Hyderabad.

CRL.R.C.No.1828 of 2006 :

Criminal Revision Case filed Under Sections 397 & 401 of Cr.P.C against the Judgment made in C.C.No.371 of 2003 dated 08.08.2006 on the file of the Court of the XIV Additional Chief Metropolitan Magistrate, Hyderabad.

CRL.R.C.No.1829 of 2006 :

Criminal Revision Case filed Under Sections 397 & 401 of Cr.P.C against the Judgment made in C.C.No.748 of 2003 dated 08.08.2006 on the file of the Court of the XIV Additional Chief Metropolitan Magistrate, Hyderabad.

CRL.R.C.No.1830 of 2006 :

Criminal Revision Case filed Under Sections 397 & 401 of Cr.P.C against the Judgment made in C.C.No.365 of 2003 dated 08.08.2006 on the file of the Court of the XIV Additional Chief Metropolitan Magistrate, Hyderabad.

CRL.R.C.No.1831 of 2006 :

Criminal Revision Case filed Under Sections 397 & 401 of Cr.P.C against the Judgment made in C.C.No.749 of 2003 dated 08.08.2006 on the file of the Court of the XIV Additional Chief Metropolitan Magistrate, Hyderabad.

CRL.R.C.No.1832 of 2006 :

Criminal Revision Case filed Under Sections 397 & 401 of Cr.P.C against the Judgment made in C.C.No.368 of 2003 dated 08.08.2006 on the file of the Court of the XIV Additional Chief Metropolitan Magistrate, Hyderabad.

CRL.R.C.No.1833 of 2006 :

Criminal Revision Case filed Under Sections 397 & 401 of Cr.P.C against the Judgment made in C.C.No.364 of 2003 dated 08.08.2006 on the file of the Court of the XIV Additional Chief Metropolitan Magistrate, Hyderabad.

CRL.R.C.No.1835 of 2006 :

Criminal Revision Case filed Under Sections 397 & 401 of Cr.P.C against the Judgment made in C.C No.369 of 2003 dated 08.08.2006 on the file of the Court of the XIV Additional Chief Metropolitan Magistrate, Hyderabad.

CRL.R.C.No.1836 of 2006 :

Criminal Revision Case filed Under Sections 397 & 401 of Cr.P.C against the Judgment made in C.C.No.370 of 2003 dated 08.08.2006 on the file of the Court of the XIV Additional Chief Metropolitan Magistrate, Hyderabad.

Counsel for the Petitioner in all the Crl.R.Cs : SRI. J. PRABHAKAR

Counsel for the Respondent No.2 in all the Crl.R.Cs : PUBLIC PROSECUTOR

The Court made the following: COMMON ORDER

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

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[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.

Sd/-K.SREENIVASA RAO
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,
1. The XIV Additional Chief Metropolitan Magistrate, Hyderabad
2. One CC to Sri J.Prabhakar ,Advocate (OPUC)
3. Two CCs to Public Prosecutor, High Court for the State of Telangana Hyderabad (OUT)
4. Two CD Copies

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HIGH COURT

CKR,J

DATED:26/02/2020



COMMON ORDER

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

Allowing the Crl.R.Cs

(6)
17/9/20