

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No. 151 of 2022

Jitendra Narayan Dash

....

Petitioner

Mr. A.K. Panda, Advocate

-Versus -

State of Odisha & Anr.

....

Opp. Parties

Mr. S.K. Mishra, Addl. Standing Counsel

Mr. A.K. Parida, Adv. (O.P. No.2)

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER

25.11.2022

Order No.

07.

1. This matter is taken up through hybrid mode.
2. As directed, the petitioner- Jitendra Narayan Dash and opposite party No.2- Prahalad Pradhan are present in person in court being identified by their respective advocates. They have also filed xerox copies of the Aadhar Card duly signed by them. On being asked, Sri Prahalad Pradhan-opposite party No.2 states that he has received a sum of Rs.9,00,000/- from the petitioner and that he is entitled to further amount of Rs.70,000/-. Sri Jitendra Narayan Das- petitioner states that he is ready and willing to pay the balance amount of Rs.70,000/- and further submits that the same may be paid from out of the sum of Rs.97,000/- kept in deposit in court below.
3. Heard learned counsel for the petitioner, learned Addl. Standing Counsel for the State and learned counsel for opposite party no.2.
4. In the present revision, the petitioner has questioned the correctness of the judgment dated 22.03.2022 passed by learned Sessions Judge, Ganjam, Berhampur, whereby the judgment dated 23.12.2019 passed by the learned J.M.F.C., Berhampur was

confirmed. By the said judgment, the learned J.M.F.C. had convicted the petitioner under Section 138 of N.I Act and sentenced him to undergo S.I. for six months and to pay compensation of Rs. 9,70,000/-, in default to undergo S.I. for a period of one month.

5. Mr. A.K. Panda, learned counsel for the petitioner submits that the matter has in the meantime been compromised with payment of the agreed amount to the Opposite Party-complainant.

6. Mr. A.K. Parida, learned counsel appearing for the Opposite Party no.2-complainant also submits that during pendency of the present revision the matter has been compromised between the parties and to such effect an application for compounding has been filed containing terms and conditions of such compromise.

7. Learned counsel for the petitioner submits that in view of the compromise already effected and noted by this Court, the revision may be disposed of by allowing the offence to be compounded thereby acquitting the petitioner from the offence under Section 138 of NI Act. It is further submitted that the petitioner with much difficulty arranged the compensation amount. Under such circumstances, the Petitioner may be exempted to pay 20% of the cheque value over and above the compensation amount as per the ratio of the case of *Madhya Pradesh Legal Services Authority Vs. Prateek Jain* and another reported in 2014 (10) SCC 690 for effecting the compromise at the level of the High Court.

8. Having regard to the facts of case and submissions noted above, this Court is inclined to allow the prayer. Further, having regard to the specific stand taken by the petitioner regarding his financial stringency, it would be just and proper to exempt the petitioner from paying 20% of the cheque value over and above the

compensation amount as per the ratio in *Prateek Jain (supra)*.

9. The Criminal Revision is therefore, disposed of by allowing the parties to compound the offence under Section 138 of N.I. Act in terms of the compromise effected by them.

10. Learned court below is directed to pass necessary orders to compound the offence in terms of the compromise. Learned court below is further directed to pass order to disburse Rs.70,000/- from out of the amount kept in fixed deposit in favour of the complainant-Prahallad Pradhan after following necessary formalities and to disburse the balance amount along with accrued interest in favour of the accused- Jitendra Narayan Das.

11. Urgent certified copy of this order be granted on proper application.

(Sashikanta Mishra)
Judge

A.K. Rana

