

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No. 792 of 2015

Pradyumna Kumar Behera
@Bebarta

...

Petitioner

Mr. D. Nanda, Advocate

- Versus -

Lt. Col. Basudev Mishra

...

Opposite Party

Mr. S.K. Mishra, Advocate

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER

16.9.2022

Order No.

14.

1. This matter is taken up through hybrid mode.
2. In the present revision, the Petitioner has questioned the correctness of the judgment dated 23rd September, 2013 passed by learned IInd Additional Sessions Judge, Puri, whereby the judgment dated 22nd March, 2010 passed by the learned J.M.F.C., Puri 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 one year and to pay compensation of Rs.4,50,000/- to the complainant.
3. Mr. D. Nanda, 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.
4. Mr. S. K. Mishra, learned counsel appearing for the Opposite Party-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.

5. A perusal of the application reveals that as per the terms and conditions agreed upon by the parties, a sum of Rs. 2 lakhs has been paid by the petitioner (Pradyumna Kumar Behera) to the opposite party (Lt. Col. Basudev Mishra) by way of Demand Draft.

6. 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 having presently resigned from service is going through financial crisis and he has with much difficulty arranged the compromise amount of Rs. 2 lakhs by taking hand loans from his well wishers. 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.

7. 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)*.

8. 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.

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

B.C. Tudu



(Sashikanta Mishra)
Judge