

THE HONOURABLE DR. JUSTICE D.NAGARJUN

CRIMINAL REVISION CASE No.1126 of 2006

O R D E R:

This Criminal Revision Case is filed aggrieved by the Judgment in C.C.No.403 of 2001, dated 02.02.2006 on the file of learned Additional Judicial Magistrate of First Class, Nizamabad, wherein respondents No.1 to 4 were found guilty for the offences under Section 138 of Negotiable Instrument Act and was sentenced to suffer simple imprisonment for a period of six months each and to pay fine of Rs.5,000/- each and in default of payment of fine, the accused shall suffer further simple imprisonment for a period of one month each.

02. The facts in brief as can be gathered from the record were goes to show that on 11.08.2003 while the trial Court was hearing the sentence to be imposed, respondents No.1 to 4 filed CrI.M.P. No.5298 of 2004 for denovo trial and the same was dismissed against which the respondents/accused filed CrI.P.No.5566 of 2004 on

the file of the then High Court of Andhra Pradesh and same was also dismissed and later the trial Court has recorded a finding that the accused is guilty of offence under Section 138 of the Negotiable Instruments Act and acquitted the accused.

03. The grounds on which this revision is filed by the petitioner/complainant was that the trial Court erred in not granting of compensation to the petitioner / complainant under Section 357 (3) of Criminal Procedure Code, is erroneous. Even though, the respondents / accused were found guilty for the offence under Section 138 of Negotiable Instruments Act, the trial Court in not passing a sentence against respondent/accused No.1 and not convicting respondent/accused No.1 under Section 138 of Negotiable Instrument Act, is erroneous and trial Court should have not taken lenient view against respondents No.1 to 4.

04. Therefore, the sum and substance of the revision is questioning the Judgment of the trial Court in not

awarding the compensation to the petitioner/complainant and not passing the sentence against respondent/accused No.1.

05. During the course of hearing, there was no representation from the petitioner. Learned counsel for the respondents has submitted that aggrieved by the Judgment of the trial Court in C.C.No. 403 of 2001 dated 11.08.2003, the respondents No.1 to 4/accused have preferred an appeal in Crl.A.No.8 of 2016 on the file of the learned Sessions Judge, Nizamabad and said Criminal Appeal was allowed by way of Judgment dated 12.04.2022 finding the respondents No.2 and 3 were not guilty for the offence under Section 138 of Negotiable Instruments Act. Once Judgment in C.C.No.403 of 2001, which is under challenge in this criminal revision case, has already been set aside, cause of action does not survive to the petitioner here to prosecute this Criminal Revision Case. Therefore, Criminal Revision Case is liable to be dismissed.

06. Accordingly, the Criminal Revision Case is dismissed. There shall be no order to as costs.

As a sequel, pending Miscellaneous Applications, if any, shall stand closed.

Date: 08-Nov-2022
TMK

DR. D.NAGARJUN, J

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