

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**MONDAY, THE TWENTY NINTH DAY OF JANUARY
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HONOURABLE SRI JUSTICE E.V. VENUGOPAL

CRIMINAL REVISION CASE NO: 414 OF 2009

Criminal Revision Case filed under Section 397 & 401 of Cr.P.C, aggrieved by the Order dated 16-03-2009 passed in CrI.A.No.343/2008 on the file of the Court of the III Additional Metropolitan Sessions Judge, Hyderabad, Preferred against the Judgment dated 22-10-2008 passed in C.C.No. 543/2003 on the file of the Court of the III Additional Chief Metropolitan Magistrate, Hyderabad.

Between:

O.Srinivasa Rao, S/o. Subder Rao, Occ: Business, R/o. H.No. 37/34/1/A,
J.J.Nagar, Sainikpuri, East Marredpally, Secunderabad.

...Petitioner/Appellant/Accused

AND

1. B.Venkaiah, S/o. Late Venkatappaiah, Occ: Engineer, R/o. H.No. 402, Sree Vani Garden, 4th Main Raod, Shantinagar Tank

...Respondent/Respondent/Complainant

2. The State of Andhra Pradesh,, rep by its Public Prosecutor, High Court of A.P., Hyderabad.

...Respondent/Complainant

**Counsel for the Petitioner: Sri ANAND, Representing
Sri. P. NAGENDRA REDDY**

**Counsel for the Respondent No.1: Sri. BODDULURI SRINIVAS RAO
(Not Present)**

Counsel for the Respondent No.2: Assistant Public Prosecutor

The Court made the following: ORDER

1

THE HONOURABLE SRI JUSTICE E. V. VENUGOPAL

CRIMINAL REVISION CASE No.414 OF 2009

ORDER:

This Criminal Revision Case is filed aggrieved by the judgment dated 16.03.2009 in Criminal Appeal No.343 of 2008 on the file of the learned II Additional Metropolitan Sessions Judge, at Hyderabad (for short, "the appellate Court") in confirming the judgment dated 22.10.2008 in C.C.No.543 of 2003 on the file of the learned III Additional Chief Metropolitan Magistrate, at Hyderabad (for short, "the trial Court").

2. Heard Mr. Anand, learned counsel representing Mr. P. Nagendra Reddy, learned counsel for the petitioner and Mr. Vizarith Ali, learned Assistant Public Prosecutor appearing for respondent No.2 State. There is no representation on behalf of respondent No.1.

3. The brief facts of the case are that the petitioner/accused borrowed a sum of Rs.2,25,000/- from respondent No.1/complainant for his personal needs and failed to repay the same. On demand, the accused issued a cheque bearing No.358638 for a sum of Rs.2,25,000/- drawn on Union Bank of India, Bowenpally Branch, Secunderabad. On presentation the

cheque was dishonoured with an endorsement "insufficient funds". Therefore, the complainant issued a legal notice dated 18.03.2003 demanding the accused to repay the amount. But the said notice was returned "unclaimed". Therefore, the accused was alleged to have committed the offence punishable under Section 138 of the Negotiable Instruments Act (for short, "the NI Act").

4. The trial Court vide judgment dated 22.10.2008 in C.C.No.543 of 2003 found the accused guilty for the alleged offence and sentenced him to suffer simple imprisonment for a period of one year. Aggrieved thereby, the accused preferred an appeal.

5. The appellate Court vide judgment dated 16.03.2009 in Criminal Appeal No.343 of 2008 dismissed the appeal confirming the judgment passed by the trial Court. Assailing the same, the present Revision.

6. Learned counsel for the petitioner submitted that the trial Court as well as the appellate Court, without appreciating the material available on record in proper perspective, erroneously passed the impugned judgments and seeks to set aside the judgment impugned.

7. Learned Assistant Public Prosecutor submitted that the appellate Court after careful scrutiny of the evidence available on record rightly passed the impugned judgment and the interference of this Court, at this stage is unwarranted. Therefore, seeks to dismiss the Revision.

8. On behalf of the complainant, the trial Court examined himself as PW1 and marked Exs.P1 to P6. On behalf of the accused, DWs.1 and 2 were examined and Exs.D1 to D4 were marked. Upon careful scrutiny of the oral and documentary evidence, the trial Court observed that the defence taken by the accused was that the complainant, with the help of goondas, forcibly obtained the post dated cheque and misused the same by filing the present complaint. But the accused failed to give any police complaint or legal notice when the complainant obtained the cheque forcibly. Therefore, upon analyzing the evidence of PW1 and DW1, it was found that the accused himself issued the subject cheque dated 09.11.2002 towards legally enforceable debt. It is also found that DW2/scientific officer did not summon for more signatures for comparison and gave his opinion by comparing with one signature. Hence, the trial Court rendered the judgment cited *supra* and convicted the accused. The

appellate Court, upon re-appreciating the oral and documentary evidence available on record, dismissed the appeal by confirming the judgment passed by the trial Court.

9. A perusal of the record shows that this Court vide order dated 17.03.2009 suspended the sentence of imprisonment imposed against the petitioner and directed him to be enlarged on bail on executing a personal bond for Rs.10,000/- with two sureties for a like sum each to the satisfaction of the trial Court.

10. In the present case on hand, the trial Court as well as appellate Court concurrently held that the accused was guilty of the offence under Section.138 of NI Act, which finding, in my considered view, does not call for interference, in exercise of revisional jurisdiction under Section 397 Cr.P.C.

11. There are no grounds much less valid grounds to interfere with the well considered judgments of the both the Courts below and accordingly, this Revision is liable to be dismissed.

12. Accordingly, the Criminal Revision Case is dismissed.

Miscellaneous Petitions, pending if any, shall stand closed.

Sd/-M.RAMANA KRISHNA
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The III Additional Chief Metropolitan Magistrate, Hyderabad
2. The III Additional Metropolitan Sessions Judge, Hyderabad

3. Two CCs to Public Prosecutor, High Court for the State of Telangana at Hyderabad.
4. One CC to Sri. P. NAGENDRA REDDY, Advocate [OPUC]
5. One CC to Sri. BODDULURI SRINIVAS RAO, Advocate [OPUC]
6. Two CD Copies

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HIGH COURT

DATED: 29/01/2024

ORDER

CRLRC.No.414 of 2009



DISMISSING THE CRIMINAL REVISION CASE

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