

**HIGH COURT FOR THE STATE OF TELANGANA**

**WEDNESDAY ,THE TWENTIETH DAY OF MARCH  
TWO THOUSAND AND TWENTY FOUR**

**PRESENT**

**THE HONOURABLE SRI JUSTICE E.V. VENUGOPAL**

**CRIMINAL REVISION CASE NO: 1334 OF 2011**

**Between:**

ERUKULLA UMA SHANKAR, S/o.Tarakanadham Business R/o. H.No. 8-1-75  
and 8-1-76, Old Beat Bazar, Warangal.

**...PETITIONER/ACCUSED**

**AND**

1. THE STATE OF A.P., Represented by its Public Prosecutor, High Court of Andhra Pradesh., Hyderabad.
2. Meluguri Ashok, S/o. Venkosa Business R/o. H.No. 3-11-69, Reddy Colony, Hanamkonda, Warangal District.

**...RESPONDENTS/COMPLAINANTS**

Revision filed under Section 397 & 401 of CrPC., aggrieved by the judgment dated 24-05-2011 in CrI.A.No. 89 of 2010 on the file of the Court of the IV Addl.Sessions Judge, (FTC) Warangal, confirming the judgment dated 18-03-2010 in C.C.No. 832 of 2007 on the file of the Court of the 1st Addl. J.F.C.M., Warangal.

**Counsel for the Petitioner(s):SRI. A PRABHAKAR RAO**

**Counsel for the Respondents: <sup>SRI</sup>~~240~~D-LINGA RAO (NOT PRESENT)**

**Counsel for the Respondents: SRI VIZARATH ALI, ASST. PUBLIC  
PROSECUTOR (TG), HIGH COURT, HYD**

**The Court made the following: ORDER**

**THE HONOURABLE SRI JUSTICE E. V. VENUGOPAL**

**CRIMINAL REVISION CASE No.1334 OF 2011**

**ORDER:**

This Criminal Revision Case is filed aggrieved by the judgment dated 24.05.2011 in CrI.A.No.89 of 2010 on the file of the learned IV Additional Sessions (FTC) Judge, Warangal (for short, "appellate Court") in confirming the judgment dated 18.03.2010 in C.C.No.832 of 2007 on the file of learned First Additional Judicial First Class Magistrate Court at Warangal (for short, "trial Court").

2. The brief facts of the case are that the petitioner/accused No.1 is the father to Accused Nos.2 and 3, who jointly run the business under the name and style of Sri Umashankar and Company and General Merchants. Due to acquaintance with the complainant, the petitioner/accused borrowed an amount of Rs.3,00,000/- from respondent No.2/complainant on 15.05.2005 and executed a Ankada on the letter-head of their business concern and promising to repay the same, on demand of respondent No.2/complainant with an interest of @ 2% p.m. Subsequently, after stopping the payment of interests, the complainant had presented the aforesaid cheques on 25.01.2007, the same were dishonoured on the ground that "Account closed" with a return memo. Therefore, respondent No.2 issued the legal notice to the petitioner demanding

to pay the due amount within 15 days, but the same was returned with false endorsement. Therefore, respondent No.2 filed a complaint against the petitioner under Section 138 of the Negotiable Instruments Act (for short, "NI Act").

3. The trial Court vide judgment dated 18.03.2010 in C.C.No.832 of 2007 convicted the petitioner for the offence under Section 138 of NI Act and sentenced him to undergo rigorous imprisonment for six (6) months and to pay fine of Rs.3,000/-. If the fine amount is realized, Rs.2,000/- shall be given to the complainant towards compensation under Section 357 (3) of Cr.P.C. after appeal time is over, in default of payment of fine, to suffer simple imprisonment for a period of two (2) months. Aggrieved thereby, the petitioner preferred an Appeal.

4. The appellate Court vide judgment dated 24.05.2011 in Crl. Appeal No.89 of 2010 dismissed the appeal confirming the judgment passed by the trial Court. Assailing the same, the present Revision.

5. During the course of hearing, learned counsel for the petitioner stated that the trial Court as well as the appellate Court concurrently found the petitioner guilty for the offence punishable under Section.138 of N.I.Act. Learned counsel relied upon the order dated 18.04.2017 passed by this Court in Crl.R.C.M.P.Nos.1708 &

1709 of 2016 in CrI.R.C.No.2887 of 2015, wherein and whereby, this Court upon taking into consideration the decisions passed by the Hon'ble Supreme Court in ***Damodar S. Prabhu Vs. Sayed Babalal<sup>1</sup>, R. Vijayan Vs. Baby<sup>2</sup>, S.R. Sunil & Company Vs. D. Srinivasavaradan<sup>3</sup>, Mainuddin Abdul Sattar Shaikh Vs. Vijay D. Salvi<sup>4</sup> and Somnath Sarkar Vs. Utpal Basu Mallick<sup>5</sup>***, wherein it was held that, the object of incorporating the penal provisions under Sections 138 to 142 of the NI Act is not only to provide a strong criminal remedy to deter the high incidence of dishonour of cheques but a remedy of punitive nature and observed that where there is a conviction, there should be a consequential levy of fine amount sufficient to cover the cheque amount along with simple interest thereon at a fixed rate of 9% per annum and held that the interest should be followed by an award of such sum as compensation from the fine amount. However, to meet the ends of justice, this Court modified the sentence of six months of simple imprisonment with fine of Rs.10,000/-, to imprisonment till rising of the day by giving set off to the period undergone if any and fine of Rs.10,00,000/- of which Rs.50,000/- would go to the State and Rs.9,50,000/- as compensation to the complainant which includes

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<sup>1</sup> 2010 (5) SCC 663

<sup>2</sup> (2012) 1 SCC 260

<sup>3</sup> (2014) 16 SCC 32

<sup>4</sup> (2015) 9 SCC 622

<sup>5</sup> 2013 (16) SCC 465

Rs.10,000/- fine if paid to adjust and out of it in compensation received by complainant, for the balance to pay or deposit within one month from that day, failing which, the accused was directed to suffer simple imprisonment for a period of six months as directed by the lower Court. Therefore, he seeks to pass appropriate orders relying upon the said order.

6. Heard Mr. A. Prabhakar Rao, learned counsel for the petitioner, Mr. Vizarith Ali, learned Assistant Public Prosecutor appearing for the respondent No.1/State. No representation on behalf of the respondent No.2. Perused the record.

7. Learned counsel for the petitioner submitted that the Courts below erred in appreciating the oral and documentary evidence available on record in proper perspective and convicted the revision petitioner. Therefore, seeks to allow the Revision.

8. Learned Assistant Public Prosecutor as well as learned counsel for respondent No.2 contended that the trial Court as well as the appellate Court after careful scrutiny of the evidence available on record rightly passed the respective judgments and the interference of this Court, at this stage is unwarranted. Therefore, seeks to dismiss the Revision.

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9. The trial Court, on behalf of respondent No.2 examined PW.1 and marked Exs.P1 to P10. On behalf of defence none were examined and no document was marked.

10. A perusal of record shows that this Court vide order dated 24.06.2011 suspended the sentence imposed against the petitioner and enlarged him on bail on executing a bond for an amount of Rs.5,000/- with two sureties each of like sum to the satisfaction of the trial Court.

11. In the present case on hand, both the Courts have concurrently held that the petitioner was guilty of the offence under Section 138 of N.I.Act, which finding, in my considered view, does not call for interference, in exercise of revisional jurisdiction under Section 397 Cr.P.C.

12. Therefore, upon careful scrutiny of the oral and documentary evidence available on record, both the Courts below have appreciated the evidence available on record in right perspective and have come to just conclusion that the petitioner has committed the offence punishable under Section 138 of N.I.Act and that finding need not be interfered.

13. Having regard to the submissions made by both the learned counsel and upon considering the fact that the

petitioner/accused suffered mental agony by roaming around trial Court as well as appellate Court, this Court is inclined to take a lenient view by reducing sentence imposed on the petitioner to the period of imprisonment already undergone by him.

14. The petitioner/accused is directed to pay an amount Rs.2,00,000/- out of which Rs.1,95,000/- to be paid to the respondent No.2/defacto-complainant and balance Rs.5,000/- to be paid to the State within a period of six (6) months from the date of receipt of a copy of the order. Upon such deposit, the *defacto* complainant is permitted to withdraw the same with immediate effect.

15. In default, the judgment 18.03.2010 in C.C.No.832 of 2007 on the file of learned First Additional Judicial First Class Magistrate Court at Warangal stands good in all respects.

16. Except the above modification, in all other aspects, the Criminal Revision Case stands dismissed.

Pending miscellaneous applications, if any, shall stand closed.

Sd/- I. NAGA LAKSHMI  
DEPUTY REGISTRAR

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SECTION OFFICER

To,

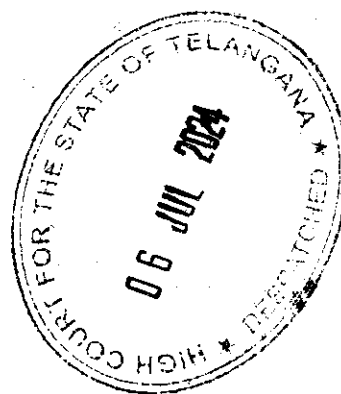
1. The IV Addl. Sessions Judge, (FTC), Warangal, (with records if any)
2. The I Addl J.F.C.M., Warangal.
3. One CC to SRI. A PRABHAKAR RAO Advocate [OPUC]
4. One CC to SRI. ~~MA~~D-LINGA RAO Advocate [OPUC]
5. Two CC to THE PUBLIC PROSECUTOR (TG) , HIGH COURT, HYD [OUT]
6. Two CD Copies

**HIGH COURT**

**DATED:20/03/2024**

**ORDER**

**CRLRC.No.1334 of 2011**



**DISMISSING THE CRLRC**

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