APHC010244642009

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3560]
(Special Original Jurisdiction)

THURSDAY, THE 12th DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

CRIMINAL REVISION CASE NO: 1769/2009

Between:

1. GUJJARLAPUDI VASUMATHI, GUNTUR., W/O. RATHNA RAJU ATTENDER, GUNTUR TELECOM DEPARTMENT CHANDRAMOULI NAGAR, GUNTUR.

...PETITIONER

AND

1. CH MADHAVA RAO RAILPET GUNTUR ANR, S/O. VEERA RAGHAVAIAH AGRICULTURE R/O. 9-6-8, RAILPET, GUNTUR.
2. THE STATE, REP. BY THE PUBLIC PROSECUTOR HIGH COURT OF ANDHRA PRADESH, HYDERABAD.

...RESPONDENTS

Revision filed under Section 397/401 of CRPC praying that in the circumstances stated in the Memorandum of grounds filed in support of the Criminal Revision Case, the High Court may be pleased to set aside the judgments in Crl.A.No.140 of 2008 dt.14-09-2009 by I Addl. Sessions Judge & C.C. No. 513 of 2006 dated 09-04-2008 of the V Addl. Junior Civil Judge, Guntur while discharging the petitioner from the alleged complaint.

IA NO: 1 OF 2009(CRLRCMP 2462 OF 2009

Petition under Section 482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to suspend the operation of the judgment in Crl.A. No. 140 of 2008 dt.14-09-2009 passed by the V Addl. Sessions Judge (Fast Track Court), Guntur, as well as the judgement in C.C. No. 513 of 2006 dated 09-04-2008 of the V Addl. Junior Civil Judge, Guntur, pending disposal of the above Revision Case.

Counsel for the Petitioner:

1. BUJJIBABU DAVULURI

Counsel for the Respondents:

1. PUBLIC PROSECUTOR

The Court made the following order:

1. Instant criminal revision case has been preferred against judgment dated 14.09.2009 passed in Criminal Appeal No.140 of 2008 on the file of learned V Additional Sessions Judge (Fast Track Court), Guntur, (hereinafter referred to as '**appellate court**') whereby learned appellate court modified the sentence imposed by learned V Additional Junior Civil Judge, Guntur, (hereinafter referred to as '**trial court**') in C.C. No.513 of 2006, dated 09.04.2008, while confirming conviction against petitioner for the offence punishable under Section 138 of Negotiable Instruments Act, 1881 (for short, **'N.I. Act'**).
2. Brief facts of case are that accused borrowed an amount of Rs.75,000/- on 20.12.2005 from complainant for the purpose of her family expenses. To discharge the said debt, accused issued a cheque bearing No.9272, dated 20.03.2006, for Rs.75,000/-, drawn on Canara Bank, Chandramoulinagar Branch, Guntur, in favour of complainant. When complainant presented the said cheque through his banker for encashment, same was dishonoured with an endorsement "Funds Insufficient". Thereafter, complainant got issued a legal notice by registered post to accused, calling upon her to pay the cheque amount within fifteen days. However, accused neither complied with the said notice nor paid the cheque amount. Hence, complainant lodged a private complaint before learned Magistrate concerned.

3. During course of trial, complainant was examined as P.W.1 and certain documents, including cheque, cheque return memo and office copy of registered legal notice, etc., were marked as Exs.P.1 to P.4. Upon appreciation of oral and documentary evidence and after hearing learned counsel appearing for the parties, learned Magistrate found the petitioner guilty of the offence punishable under Section 138 of N.I. Act and sentenced her to undergo rigorous imprisonment for four months and to pay a fine of Rs.500/-.

4. Aggrieved by the said judgment, accused preferred an appeal. Learned appellate court, while confirming the conviction, modified the sentence by reducing the substantive sentence of imprisonment from rigorous imprisonment for four months to simple imprisonment for two months. Aggrieved by the said judgment, accused has preferred instant criminal revision case.

5. Learned counsel for petitioner submits that petitioner is a woman aged about 60 years. At this stage, it would be difficult for her to undergo sentence imposed upon her. He further submits that petitioner has already deposited the fine amount before learned Magistrate. He also submits that impugned judgments passed by learned trial court as well as appellate Court suffer from illegality and that the courts below have not properly appreciated the evidence on record. Thereby, he prayed for setting aside the conviction and sentence imposed against petitioner.

6. Heard learned Assistant Public Prosecutor appearing for the State. Perused the impugned judgment passed by learned appellate court.
7. Conviction and sentence imposed against petitioner for the offence punishable under Section 138 of N.I. Act is under challenge before this Court. Therefore, this Court has to verify whether the conviction and sentence recorded by the Courts below warrant interference in exercise of its revisional jurisdiction.
8. It appears that learned trial court has perused the cheque marked as Ex.P.1 as well as the cheque return memo relating to the said cheque, which reflects its dishonour. The said documents were duly marked during the course of trial.
9. During trial, though petitioner disputed the genuineness of Ex.P.1 by contending that it was a forged document, except putting such a suggestion during the course of cross-examination, no material oral or documentary evidences were placed before trial court to rebut the statutory presumption under Section 139 of N.I. Act. The holder of a cheque has always statutory presumption under Section 139 of N.I. Act that the cheque was issued in discharge, in whole or in part, of any legally enforceable debt or other liability. However, the said presumption is rebuttable. Accused is entitled to rebut the said presumption by raising a probable defence.
10. In the present case, accused neither examined herself nor placed any documentary evidence on record to rebut the statutory

presumption. Considering the same, it appears that learned trial court as well as learned appellate court have correctly opined that since signature over Ex.P.1 was not denied, merely claiming that Ex.P.1 is a forged document is not sufficient to discharge the liability.

11. Accordingly, this Court finds no justification to interfere with the judgments passed by learned trial court as well as learned appellate court. Instant criminal revision case is devoid of merit and is liable to be dismissed.

12. Accordingly, instant criminal revision case is dismissed.

13. Order suspending the sentence during the pendency of instant criminal revision case shall stand vacated.

14. Penal action against offenders are provided to safeguard victim. Each and every crime is a crime against State. Society demands justice, gender cannot be a deciding factor to reckon gravity of punishment. In this case, though convict is a lady, for that reason only two months simple imprisonment cannot be revoked.

15. Petitioner is directed to surrender before learned trial court or concerned jail authorities within six weeks from the date of passing of this order to serve out the remaining portion of the sentence as directed by learned appellate court. Failing which, learned trial court shall take necessary steps including issuance of non-bailable warrant for securing the presence of petitioner and for compliance with the order.

16. Let a copy of this order be served upon learned trial court for ready reference.

17. Miscellaneous petitions, if any, pending in instant criminal revision case shall stand closed.

JUSTICE SUBHENDU SAMANTA

Dt.12.11.2026
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