APHC010352882009

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

MONDAY, THE 16th DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

CRIMINAL REVISION CASE NO: 1716/2009

Between:

1. KOTRA SOMESHWAR RAO,, S/O LATE KARRENNA, R/O R.E.QUARTERS TYPE II, 2/5 MARRAIPALEM POST, VISAKHAPATNAM DISTRICT.

...PETITIONER

AND

1. K VENKATA RAO ANOTHER, S/O K.KRISHNAMURTHY, SUDHARSHAN CHIT INDIA LTD., DOOR NO.16-11-178, GROUND FLOOR, MOON LAND APARTMENT K.V.AGRAHALL,
2. THE STATE OF ANDHRA PRADESH, REP. BY ITS PUBLIC PROSECUTOR, HIGH COURT OF A.P., AT HYDERABAD.

...RESPONDENT(S):

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 conviction and sentence imposed in the Judgment dt.10-8-2009 in Crl.A.No.83 of 2007 passed by the Spl. Judge for trail of offence under the SCs & STs (POA) Act, at 1989-cum- V Addl. Dist. Judge, Nellore.

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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 sentence passed in Crl.A.No.83 of 2007, dt.10-8-2009 on the file of the Spl. Judge for Trial of offence under the SCs & STs (POA) Act, at 1989 -cum- V Addl. Dist. Judge, Nellore and enlarge the petitioner on bail.

Counsel for the Petitioner:

1. K MANIK PRABHU

Counsel for the Respondents:

1. PUBLIC PROSECUTOR
2. RAMANA ALLU

The Court made the following order:

1. There is no representation on behalf of petitioner.
2. Learned counsel for first respondent appeared virtually.
3. Instant criminal revision case has been pending since 2009. Considering the long pendency of the matter, this Court heard the matter on merits on 13.11.2026 and the matter is listed today for final hearing.
4. Heard learned counsel for 1st respondent.
5. Instant criminal revision case has been preferred against judgment dated 10.08.2009 passed in Criminal Appeal No.83 of 2007 on the file of learned Special Judge for Trial of Offences under SCs and STs (POA) Act, 1989-cum-V Additional District Judge, Nellore, whereby learned appellate court, while confirming conviction recorded in judgment dated 29.06.2007 passed in C.C.No.632 of 2003 on the file of learned II Additional Judicial Magistrate of First Class, Nellore, modified the sentence and fine amount imposed against petitioner.
6. Brief facts of prosecution case are that, first respondent, being the complainant, lodged a private complaint before learned Magistrate against petitioner for commission of an offence punishable under Section 138 read with Section 142 of Negotiable Instruments Act, 1881

(for short, '**N.I.Act**'). It is the case of complainant that petitioner borrowed an amount of Rs.50,000/- from him on 30.05.2001 and executed a promissory note in his favour, agreeing to repay the said amount with interest at 24% per annum. To discharge the said debt, petitioner issued a cheque bearing No.686972, dated 24.08.2003, for Rs.74,000/- in favour of complainant. When the complainant presented the said cheque for collection through his banker, the same was dishonoured with an endorsement "Funds Insufficient". Thereafter, complainant issued a legal notice dated 29.09.2003 to petitioner demanding payment of cheque amount. Petitioner, having received the said notice, issued a reply notice dated 13.10.2003, but failed to pay the cheque amount. Hence, the complaint.

7. During trial, complainant examined himself as P.W.1 and the Bank Manager as P.W.2 and got marked Exs.P.1 to P.9. On behalf of the defence, three witnesses were examined as D.Ws.1 to 3 and Ex.D.1 was marked.

8. After hearing both parties and considering the evidence available on record, learned Magistrate found petitioner guilty of offence punishable under Section 138 read with Section 142 of N.I.Actand sentenced him to undergo simple imprisonment for a period of six months and also to pay a fine of Rs.2,000/-, in default of which to undergo simple imprisonment for one month.

9. Aggrieved by judgment of conviction and sentence, petitioner preferred Criminal Appeal No.83 of 2007 before learned appellate court. Learned appellate Court, while confirming the conviction, modified the sentence of imprisonment from six months to three months and directed petitioner to pay a fine of Rs.10,000/-, besides fine amount of Rs.2,000/- imposed by learned trial court. With the said modification of sentence, learned appellate court dismissed the appeal. Hence, the present revision.
10. Heard learned counsel for first respondent. Perused the observations of learned trial court as well as learned appellate court.
11. Learned appellate court, while dealing with the evidence of prosecution and defence witnesses, clearly observed that though the defence had raised several grounds to disprove the statutory presumption under Section 139 of N.I.Act, petitioner failed to rebut the said presumption by placing convincing evidence on record.
12. It further appears that though it was pleaded by petitioner that blank signed cheques and promissory notes were taken by complainant in the year 2001 for the purpose of arranging loans, no convincing material was placed on record to substantiate the said contention.
13. It further appears that Ex.P.9, attested copy of cheque refunded register, clearly shows that cheque was presented on 03.09.2003. The evidence of P.Ws.1 and 2 establishes that cheque issued by petitioner was dishonoured for want of sufficient funds. Though the prosecution witnesses were subjected to cross-examination by the defence, their

evidence with regard to the issuance and dishonour of cheque remained unshaken.

14. Learned appellate Court also scanned the evidence of prosecution witnesses and defence witnesses. I have also perused observations of learned appellate court in paragraphs 20 to 28 of its judgment.

15. Learned appellate court, after considering the evidence of prosecution witnesses, defence witnesses and the documentary evidence, came to the conclusion that cheque was issued towards discharge of a legally enforceable debt and that petitioner failed to rebut statutory presumption under Section 139 ofN.I.Act.In my view, learned appellate court has appreciated the evidence in its proper perspective.

16. Findings recorded by Courts below are supported by the evidence available on record. I find no illegality, irregularity or perversity in the findings recorded by learned appellate court warranting interference by this Court in exercise of its revisionaljurisdiction.Hence, this Court finds no justification to interfere with 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.

17. Accordingly, instant criminal revision case is dismissed.

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

19. 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. Since the petitioner is not represented, State is directed to intimate him regarding gist of the order through local police station so that the order may be complied with.

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

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

JUSTICE SUBHENDU SAMANTA

Dt.16.11.2026
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