SS,J
Crl.R.C.No. 731 of 2010
Dated 13.11.2026

APHC010536762010

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

FRIDAY, THE 13th DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

CRIMINAL REVISION CASE NO: 731 OF 2010

Between:

1. S. VENKATA KRISHNAIAH, PRODDATUR, KADAPA DISTRICT., PROPRIETOR, SARALLI VENKATA KRISHNAIAH FERTILIZERS D.NO. 3-611, YMR COLONY, PRODDATUR, KADAPA DISTRICT.

...PETITIONER

AND

1. M/S GODAVARI FERTILIZERS CHEMICALS LTD KURNOOL, REP. BY ITS G.V. SUBBA REDDY ,REGIONAL MANAGER, H.NO. 51 / 963 / 5A, LIC COLONY, KURNOOL.
2. THE STATE OF ANDHRA PRADESH, REP. BY ITS PUBLIC PROSECUTOR HIGH COURT OF ANDHRA PRADESH, HYDERABAD.

...RESPONDENT(S):

Counsel for the Petitioner:

1. K SOMA KONDA REDDY

Counsel for the Respondent(S):

1. PUBLIC PROSECUTOR

The Court made the following:

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

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ORDER:

1. In spite of direction by this Court, dated 16.06.2025, proof of service of notice upon petitioner/Respondent No.1 was not filed. There is no representation on behalf of Petitioner. This matter is pending since the year 2010. Approach of the petitioner does not inspire confidence of this Court. Accordingly, this Court thinks it is necessary to decide the matter on merit. Thus, the instant Criminal Revision Case be heard on merits.

2. Heard Sri Panini Somayaji, learned Additional Public Prosecutor. Perused the impugned Judgments passed by learned Trial Court and learned Appellate Court.

3. Instant Criminal Revision Case, under section 397 and 401 of the Criminal Procedure Code, 1973, has been preferred against order of conviction passed in Criminal Appeal No.65 of 2008 vide common judgment, dated 03.06.2009, in Crl.A.No.55 of 2008 and Criminal Revision Petition No.65 of 2008, by learned Principal Sessions Judge, Kurnool, Kurnool District, wherein he modified the sentence of conviction passed vide Judgment in C.C.No.183 of 2002, dated 03.04.2008, by learned Judicial Magistrate of I Class, Kurnool.

Brief facts of complaint are that:

4. The complainant is a company, which used to manufacture various kinds of fertilizers and pesticides. Accused is a Proprietor of a concern who did Dealership Business with the complainant's company. Complainant company supplied various fertilizers and pesticides during business transactions and an amount of Rs.27,30,985-15 Ps was due by accused as on 31.03.2001. Accordingly, a cheque was issued by the accused Company in favour of Petitioner's company on 28.01.2002 amounting to Rs.27,00,000/-. Said cheque was deposited in the Banker of Complainant Company, for encashment, but it was dishonoured and returned with an endorsement "account closed". Thereafter, the complainant company has issued a legal notice on 18.02.2002 and the same was received by accused and they also issued a reply to the demand notice, on 06.03.2002, with false allegations. Thereafter, the complainant company has lodged private complaint before the learned Magistrate.

5. During trial, Complainant Company has produced two witnesses as P.W.1 and P.W.2, including several documents, which were marked as Ex.P.1 to Ex.P.13.

For defence, no oral or documentary evidences were placed.

6. After hearing the parties and upon perusal of oral and documentary evidence placed on record, learned Judicial Magistrate of I

Class, Kurnool, has recorded an order of conviction vide its judgment, dated 03.04.2008, the petitioner found to be guilty for an offence punishable under section 138 of the Negotiable Instruments Act and considering the age of the accused was 70 years, the learned Trial Judge is of the view that sentencing him to the imprisonment is not reasonable, hence, sentenced to pay a fine of Rs.10,000/- (Rupees ten thousand only), in default of payment of fine amount, to suffer simple imprisonment for a period of three (03) months and to pay a compensation of Rs.27,00,000/- (Rupees twenty seven lakh only) to the complainant.

7. An appeal has been preferred against such order of conviction and sentence vide Criminal Appeal No.55 of 2008 and Criminal Revision petition No.65 of 2008 has been filed by petitioner to examine the correctness and legality of the sentence of fine imposed against the accused; in C.C.No.183 of 2002 on the file of Judicial Magistrate of I Class, Kurnool, dated 03.04.2008, and to pass sentence of imprisonment on the respondent/accused.

8. Learned Appellate Court heard both the Criminal Appeal and Criminal Revision Petition, jointly and passed Common Judgment, dated 30.06.2009, modifying the order of conviction and sentence as follows:

> “In the result, the appeal is allowed in part, confirming the conviction dated 03.04.2008 as well as the compensation imposed against the appellant/accused in C.C.No.183 of 2002 on the file of Judicial Magistrate of I Class, Kurnool. At the same time, the Revision

> Petition is allowed, setting aside the sentence of payment of fine dated 03.04.2008 imposed against the appellant/accused in C.C.No.183 of 2002 on the file of the Judicial Magistrate of I Class, Kurnool. However, the appellant/ accused is sentenced to undergo imprisonment for a period of two (02) months, consequently, the appellant/accused is found guilty for the offence punishable under Section 138 of Negotiable Instruments Act, convicted under Section 255(2) Cr.P.C., and sentenced to undergo imprisonment for a period of two (02) months and the appellant/accused is further ordered to pay compensation of Rs.27,00,000/- (Rupees twenty seven lakh only) to the complainant. The fine amount paid by the appellant/ accused in the Trial Court shall be refunded to him, after expiry of Revision Time".

Against such order of conviction, the accused has preferred present Criminal Revision Case.

Observation of this Court.

9. It appears that learned Magistrate at the time of imposing substantive sentence, observed that age of accused was 70 years, so sentencing him to imprisonment is not reasonable and accused was sentenced to only pay a fine of Rs.10,000/- (Rupees ten thousand only), in default of payment of fine amount, to suffer simple imprisonment for a period of two (02) months and also further sentenced to pay Rs.27,00,000/- (Rupees twenty seven lakh only) as compensation to the complainant. Learned Appellate Court while analyzing the term of sentence, is of the view that payment of fine imposed upon accused is illegal. However, the accused was sentenced to undergo simple imprisonment for a period of two (02) months for the offence punishable under section 138 of the Negotiable Act and further ordered to pay compensation of Rs.27,00,000/- to the complainant.

10. I have perused the observation of learned Appellate Court. The order of learned Trial Court/Magistrate was altered and modified in terms of direction of the Hon'ble Supreme Court in **Sayeed Ishaque Memon –vs- Ansari Naseer Ahmed**[1] wherein the ratio was laid down that *"if fine imposed on the accused forms part of sentence, the Court cannot direct the accused to pay compensation also, in terms of section 357(3) of the Criminal Procedure Code".*

11. Considering the entire aspect, it appears that the learned Appellate Court has not committed any error in partly modifying the conviction and sentence passed by learned Magistrate. Thus, the instant Criminal Revision Case is liable to be dismissed as devoid of merits.

12. Accordingly, instant Criminal Revision Case is dismissed.

13. Order of suspension of sentence passed by this court, during pendency of this Criminal Revision Case, is hereby vacated.

14. The Petitioner is directed to appear before learned Trial Court or before concerned jail authority to serve out remaining portion of sentence, within six (06) weeks from the date of passing of this Order, failing which, learned Trial Court shall issue necessary Warrant of Arrest against the petitioner, to comply this order.

[1] (2006) 1 Supreme Court Cases 533

15. Period of incarceration, if any, undergone by the petitioner during investigation, trial or appeal of this case, shall be given set off under section 428 of the Criminal Procedure Code (corresponding section 468 of B.N.S.S, 2023).

16. Since the petitioner is not representing before this Court, State is directed to intimate the petitioner regarding gist of the order.

17. Let a copy of this Order be served on the Trial Court for ready reference.

Consequently, pending miscellaneous applications, if any, shall stand closed.

JUSTICE SUBHENDU SAMANTA

Date: 13.11.2026
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