SS,J
Crl.R.C.No. 75 of 2010
Dated 17.11.2026

APHC010702082010

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

TUESDAY, THE 17th DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

CRIMINAL REVISION CASE NO: 75 OF 2010

Between:

1. A.ASEERVADAM, S/O MOSHE, VILLAGE SARPANCH, R/O BAVANAGAR COLONY, PONNUR, GUNTUR DISTRICT.

...PETITIONER

AND

1. THE STATE OF A P REP ITS PP HYD ANOTHER, REP. BY ITS PUBLIC PROSECUTOR, HIGH COURT OF A.P., AT HYDERABAD.
2. KURRA NAGABHUSHANAM, S/O THIRUPATHAIAH, AGRICULTURIST, R/O TELAGAYAPALEM, KAKUMANU MANDAL, PONNUR,

...RESPONDENT(S):

Counsel for the Petitioner:

1. K RAMAMOHAN

Counsel for the Respondent(S):

1. PUBLIC PROSECUTOR

The Court made the following:

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

CRIMINAL REVISION CASE NO: 75 OF 2010

ORDER:

1. There is no representation on behalf of petitioner for long time. Today is fixed for final hearing. None appears on behalf of petitioner. This matter is pending since the year 2010. Considering the long pendency of the matter, matter is heard on merit.

2. Instant Criminal Revision Case, under section 397 and 401 of the Criminal Procedure Code, 1973, has been preferred against Judgment, dated 18.01.2010, in Crl.A.No.164 of 2008 passed by learned II Additional Sessions Judge, Guntur, wherein and where under he confirmed the order of conviction and sentence against the petitioner being Accused for an offence punishable under section 138 of the Negotiable Instruments Act, passed by learned Additional Junior Civil Judge, Ponnur, vide judgment, dated 18.04.2008 in C.C.No. 223 of 2004.

3. Accused borrowed an amount of Rs.30,000/- (Rupees thirty thousand only) from the complainant on 26.10.2003 as hand loan and issued a cheque for Rs.30,000/- (Rupees thirty thousand only) to the complainant towards discharge of the said debt. Complainant presented said cheque in his banker for collection, but the same was dishonoured for the reasons “funds insufficient” in the account of accused. Later, complainant got issued a statutory notice demanding the accused to discharge the cheque amount.

Accused having received said notice, kept quite. Hence, complainant has preferred private complaint before the jurisdictional Magistrate for the offence punishable under section 138 of the Negotiable Instruments Act.

4. During trial, complainant himself got examined as P.W.1 and got marked cheque as Ex.P.1, memo given by Andhra Bank, Nidubrolu as Ex.P.2, office copy of legal notice issued by complainant to the accused as Ex.P.3, postal acknowledgment of accused as Ex.P.4 and postal receipt as Ex.P.5.

On behalf of accused, none were examined and no documents were marked.

5. After hearing the parties and upon perusal of oral and documentary evidence placed on record, learned Additional Junior Civil Judge, Ponnur, has recorded an order of conviction vide its judgment, dated 18.04.2008, found accused to be guilty for an offence punishable under section 138 of the Negotiable Instruments Act, convicted and sentenced him to undergo simple imprisonment for a period of three (03) months and to pay a fine of Rs.2,000/- (Rupees two thousand only), in default of payment of fine amount, to suffer simple imprisonment for a period of three (03) months.

6. Order of conviction against Accused was challenged vide Criminal Appeal No.164 of 2008 before learned II Additional Sessions Judge, Guntur. Learned Appellate Court vide its Judgment, dated 18.01.2010, confirmed the conviction and sentence passed by learned trial court against

appellant/ Accused. Hence, the present Criminal Revision Case has been preferred by appellant/ Accused.

7. It appears from the docket orders of this court that necessary direction was passed by this Court to serve notice upon Respondent No.2. It has been submitted on behalf of petitioner at the first instance that the 2nd respondent has expired and petitioner shall bring legal representatives of the complainant by filing necessary applications. Till today, no such application is placed. Since the criminal revision case has been admitted, it has to be disposed of on merits. Accordingly, the same is heard on merit.

8. On plain perusal of the impugned orders of learned Trial Court, it appears that during trial, complainant was examined as P.W.1. Several documents were marked, including cheque, bank return memo, office copy of legal notice, postal acknowledgment and postal receipt as Ex.P.1 to Ex.P.5. From defence, no oral and documentary evidences were adduced.

9. After considering the material, learned trial court is of the view that there is a statutory presumption under section 139 of the Negotiable Instruments Act standing in favour of Holder of the cheque i.e., complainant. Since the accused did not adduce any evidence in support of his contention or as he miserably failed to discharge the statutory burden, he was found to be guilty.

10. It is further apparent from the Judgment of the learned appellate court that, he further clarified the position of Law decided in several judgments of the Hon'ble Apex Court and is of the view that the order and finding of learned trial court is justifying. I have further perused the impugned order passed by learned appellate Court which suffers no illegality or no impropriety. Accordingly, I find no justification to interfere with the impugned Judgment passed by the learned trial court, confirmed by learned appellate court.

11. Accordingly, instant Criminal Revision Case is dismissed.

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

13. 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.

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

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

16. 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: 17.11.2026
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