

(2024) 03 TEL CK 0030

High Court For The State Of Telangana:: At Hyderabad

Case No: Criminal Revision Case No. 1215 Of 2008

K.Niranjan Reddy

APPELLANT

Vs

J.Ratna Kumar And Another,

RESPONDENT

Date of Decision: March 26, 2024

Acts Referred:

- Code Of Criminal Procedure, 1973 - Section 397
- Negotiable Instruments Act, 1881 - Section 138

Hon'ble Judges: K.Surender, J

Bench: Single Bench

Final Decision: Partly Allowed

Judgement

1. This Criminal Revision Case is filed under Sections 397 and 401 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') by the revision petitioner, aggrieved by the Judgment dated 11.08.2008 in Crl.A.No.88 of 2008 passed by XXII Additional Chief Judge-cum-Before Motor Accidents Claims Tribunal, City Criminal Court, Hyderabad confirming the judgment passed in C.C.No.537 of 2004 on the file of the learned III Additional Chief Metropolitan Magistrate, Hyderabad, for the offence punishable under Section 138 of Negotiable Instruments Act, wherein the revision petitioner/accused was convicted for the offence under Section 138 of Negotiable Instruments Act.

2. Heard. Perused the record.

3. Briefly the case of the prosecution is that the cheque in question for Rs.1,50,000/- was issued by the revision petitioner herein to discharge the loan amount of Rs.1,50,000/- taken earlier for his personal necessities. The said cheque when presented for clearance was returned unpaid on the ground of "Account closed". Since the amount covered by the cheque was not paid, even after issuance of notice, a criminal complaint was filed.

4. The Trial Court found that the cheque was issued towards legally enforceable debt and the revision petitioner is liable to pay the amount covered by the cheque. The finding of the learned Magistrate was confirmed by the Sessions Court in Appeal.

5. The finding of the Courts below needs no interference since the revision petitioner has failed to discharge his burden by adducing evidence or making out a case from the evidence produced by the complainant.

6. The learned counsel appearing for revision petitioner would submit that the revision petitioner is suffering from cancer and is inclined to deposit Rs.2,00,000/- before the trial court by taking a Fixed Deposit Receipt in the name of the complainant.

7. In the said circumstance, this Court is inclined to consider reducing the sentence of imprisonment which was imposed by the trial Court and confirmed by the Sessions Court to the period already undergone.

8. Keeping in view the facts of the present case, the revision petitioner/accused is directed to deposit Rs.2,00,000/- before the trial Court by taking an FDR in the name of the complainant. The said FDR shall be taken and deposited before the trial court within a period of three weeks from the date of the order of this Court, failing which the revision petitioner shall undergo default imprisonment of six months.

9. The trial Court shall summon the complainant and hand over the Fixed Deposit Receipt deposited by the accused after due verification.

10. With the above direction, this Criminal Revision Case is partly allowed.

Miscellaneous Petitions, pending if any, shall stand closed.