

Criminal Revision
Present: **The Hon'ble Justice Ashim Kumar Roy**
Judgment on: 03.03.2010
C.R.R. No. 226 of 2010

Kedarnath Tewari
versus
Nirmal Ghosh

Point:

COMPOUNDABLE OFFENCE: Accused convicted under Section 138 of the Negotiable Instruments Act- Whether be acquitted on compromise- Negotiable Instruments Act, 1881, S. 147.

Fact: The petitioner, by an order, had been convicted under Section 138 of the Negotiable Instruments Act which was affirmed by the Sessions Court in its Revisional jurisdiction. The petitioner by filing the instant application has sought for interference with the impugned order only on the ground that after the order of Sessions Court the dispute by and between the parties have been amicably settled out of Court.

Held:

The petitioner have sought for interference with the order of conviction and sentence only on the ground that after revisional Court upheld the order of conviction and sentence, the dispute by and between the parties have been amicably settled out of Court and the complainant has no grievance at the present moment against the accused petitioner. A joint compromise petition has been filed by the parties reiterating such facts and their compromise. This application for compounding the offence under Section 147 of the Negotiable Instruments Act stands allowed and the accused/petitioner is acquitted.

Case cited: K.M. Ibrahim Vs. K.P. Mohammed & Anr., reported in AIR 2010 SC 276

For Petitioner : Mr. Ayan Bhattacharjee

For Opposite Party: Mr. Arindam Sen

The Court: The present petitioner has been convicted under Section 138 of the Negotiable Instruments Act and sentenced to suffer simple imprisonment for one month and also to pay compensation of Rs. 1,08,000/- with default clause. The petitioner challenged the said order of conviction and sentence before the Sessions Court in a criminal revision. However lost there. Hence, this criminal revision challenging the said order of the revisional Court whereby the order of the Trial Court has been affirmed.

2. Now, the petitioner have sought for interference with the order of conviction and sentence only on the ground that after revisional Court upheld the order of conviction and sentence, the dispute by and between the parties have been amicably settled out of Court and the complainant has no grievance at the present moment against the accused petitioner.

In this regard a joint compromise petition has been filed by the parties reiterating such facts and their compromise.

3. Heard the Learned Counsels appearing on behalf of the parties. Perused the compromise petition as well as other materials on record.

4. The offence punishable under Section 147 of the Negotiable Instruments Act is a compoundable offence. Furthermore, in the case of K.M. Ibrahim Vs. K.P. Mohammed & Anr.,

reported in AIR 2010 SC 276. It has been held by the Apex Court that even at the appellate stage, an offence punishable under Section 138 of the N.I. Act can be allowed to be compounded invoking Section 147 of the said Act.

5. In view of above, this application for compounding the offence under Section 147 of the Negotiable Instruments Act stands allowed and the accused/petitioner is acquitted.

6. This criminal revisional application, thus, stands disposed of.

7. Criminal Section is directed to deliver urgent Photostat certified copy of this Judgement to the parties, if applied for, as early as possible.

(Ashim Kumar Roy, J.)