

CRIMINAL REVISION

Present: The Hon'ble Justice Mr. Ashim Kumar Roy

M/s. Sita Knitwear Pvt. Ltd. & ors

vs

State & Anr

Judgment On: 07.04.2010

CRR No. 469 of 2010

With

CRAN 1328 of 2010

POINTS:

COMPOUNDING:-Dishonor of cheque-Order of conviction and sentence -Appeal before the Learned Sessions Court-Learned Sessions Court affirmed the order of conviction and sentence-Criminal Revisional application pending-Joint compromise petition filed by the petitioners-Dispute settled out of Court-Prayer for compounding the offence, whether can be considered by the Court-Negotiable Instruments Act, 1881 Ss.138/141

FACTS:

In a trial relating to an offence punishable under Section 138 of the Negotiable Instruments Act held before the Learned Metropolitan Magistrate, 17th Court, Calcutta, the petitioners were convicted under Section 138/141 of the Negotiable Instruments Act and while the petitioner no. 1 was sentenced to pay a fine the petitioner no. 2 was sentenced to suffer simple imprisonment for two months and to pay a compensation. Against the said order of conviction and sentence, the petitioners filed an appeal before the Learned Sessions Court. However, in the appeal the Learned Sessions Court affirmed the order of conviction as well as the sentence. Challenging the said order, the petitioners moved the instant Criminal Revision before this Court.

HELD:

During the pendency of this Criminal Revisional Application, a joint compromise petition has been filed by the petitioners and the complainant-opposite party with a prayer, for

compounding the offence on the ground that dispute has been settled out of Court and the payment has been made to the complainant-opposite party. In terms of the provisions of Section 147 of the Negotiable Instruments Act, for compounding the offence punishable under the said Act is compoundable. In such view of the matter the prayer for compounding is allowed and the petitioners stand acquitted from the case. Paras-2&3

CASE CITED:

Vinay Devanna Nayak -vs- Ryot Sewa Sahakari Bank Ltd.,(2008) 2 SCC 305

The petitioners/applicants: Mr. Subhasish Pachhal

Mr. Ramashis Mukherjee

The State: Mr. Kashem Ali Ahmed

The opposite party no. 1--- Mr. Nirmalya Ray

THE COURT:

1. In a trial relating to an offence punishable under Section 138 of the Negotiable Instruments Act held before the Learned Metropolitan Magistrate, 17th Court, Calcutta, the petitioners were convicted under Section 138/141 of the Negotiable Instruments Act and while the petitioner no. 1 was sentenced to pay a fine of Rs. 2,000/-, the petitioner no. 2 was sentenced to suffer simple imprisonment for two months and to pay a compensation to the tune of Rs. 1,75,000/-. Against the said order of conviction and sentence, the petitioners filed an appeal before the Learned Sessions Court. However, in the appeal the Learned Sessions Court affirmed the order of conviction as well as the sentence. Challenging the said order, the petitioners moved the instant Criminal Revision before this Court.

2. During the pendency of this Criminal Revisional Application, a joint compromise petition has been filed by the petitioners and the complainant-opposite party with a prayer for compounding the offence on the ground that dispute has been settled out of Court and the payment has been made to the complainant-opposite party. In terms of the provisions

of Section 147 of the Negotiable Instruments Act, the offence punishable under the said Act is compoundable.

3. In such view of the matter and relying on the decision of the Hon'ble Supreme Court in the case of ***Vinay Devanna Nayak -vs.- Ryot Sewa Sahakari Bank Ltd., reported in (2008) 2 SCC 305***, the prayer for compounding is allowed and the petitioners stand acquitted from the case. This Criminal Revision stands succeed.

4. Accordingly, the application for compromise being CRAN 1328 of 2010 stands *disposed of*.

5. Criminal Section is directed to supply the urgent Photostat certified copy of this order to the parties, if applied for.

(Ashim Kumar Roy, J.)