

SUPREME COURT OF INDIA

P.Chandrakala

Vs.

K.Narender

CrI.A.No.1241 of 2017

(J.Chelameswar and S.Abdul Nazeer,JJ.,)

24.07.2017

JUDGMENT

S.Abdul Nazeer,J.,

SLP(CrI.)No.3152 of 2015

1. Leave granted.

2. The respondent No.1 filed a private complaint before the V Metropolitan Magistrate, Hyderabad (Re-designated as III Additional Chief Metropolitan Magistrate, Hyderabad) against the appellant alleging that the appellant had borrowed a sum of Rupees five lakhs from him promising to repay the same on an agreed interest at the rate of 2.5% per annum and later the appellant did not repay the amount and on repeated demands, the appellant issued post-dated cheque dated 29.8.2000 for Rupees seven lakhs and the said cheque on presentation on 8.2.2001 was returned on the ground of 'insufficient funds'. The appellant did not pay the amount in spite of issue of statutory notice. It was, therefore, alleged that the appellant has committed an offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as 'the N.I. Act').

3. Learned magistrate took the complaint on file as CC No.103 of 2001 under Section 138 of the N.I. Act against the appellant. After trial, learned magistrate by his order dated 20.7.2005 convicted the appellant and sentenced her to undergo simple imprisonment (SI) for six months and to pay a fine of Rupees five hundred, in default of payment of fine, she was directed to undergo SI for ten days. She was also directed to pay a compensation of Rupees seven lakhs under Section 357(3) of the Cr.P.C. It was further held that if the appellant fails to pay the compensation, she will have to undergo SI for three months.

4. The appeal filed by the appellant in criminal appeal No.212 of 2005 was dismissed by the appellate court vide order dated 12.1.2006.

5. The appellant challenged the said judgment of the sessions court before the High Court of Judicature at Hyderabad by filing Criminal Revision No.90 of 2006. The Revision Petition was dismissed by the High Court on 12.8.2014. The appellant has challenged the legality and correctness of the said order in this appeal.

6. Learned counsel for the parties submit that during the pendency of the revision case before the High Court the matter was compromised. Learned counsel for the appellant submits that the entire amount has been paid to the first respondent. Learned counsel for the first respondent submits that the first respondent has received the entire amount. Therefore, he has no objection if the conviction already recorded under Section 138 of the NI Act is set aside.

7. Since the parties have settled their disputes, we allow the parties to compound the offence, set aside the judgment of the courts below and acquit the appellant of the charges against her.

8. We are of the view that since the appellant has wasted the public time, while setting aside the aforesaid orders, she should be burdened with exemplary costs, which we quantify at Rupees one lakh. The appellant is directed to pay the cost as ordered by us to an orphanage, namely, Delhi Council for Child Welfare, located at Qudsia Bagh, Yamuna Marg, Civil Lines, Delhi 110054, within four weeks from today and produce an acknowledgement for having paid the amount to the orphanage within one week thereafter. If the appellant fails to produce such acknowledgement, the order of conviction and sentence against the appellant would revive and the Registrar (Judicial) shall take appropriate further action for the execution of such revival order.

9. The appeal is allowed in the aforesaid terms.