
(2013) 01 DEL CK 0253
In the Delhi High Court
Case No : Criminal Rev. P. 33 of 2012

Bhim Sain Taneja

APPELLANT

Vs

State (NCT of Delhi) and Another

RESPONDENT

Date of Decision : 07-01-2013

Acts Referred:

Citation : (2013) 1 AD 673 : (2013) 1 ILR Delhi 699 : (2012) 1 JCC 55

Hon'ble Judges : G.P. Mittal, J

Bench : Single Bench

Advocate : Prem Kumar with Mr. Rakesh Kumar and Mr. Ashish Sharma, for the Appellant; Rajdipa Behura, APP for the State, Mr. Neeraj Gupta, with Ms. Meenu Chauhan, for the Complainant along with Complainant in person, for the Respondent

Judgement

G.P. Mittal, J.

CRL. REV. P. 33/2012 and CrI. MA 4/2013

1. This Revision Petition is directed against a judgment dated 09.01.2012 passed by the learned Additional Sessions Judge (ASJ) whereby the Appeal against the conviction and sentence of simple imprisonment for a period of two years and to pay compensation of Rs. 54 lacs and in default of payment of compensation, to undergo further simple imprisonment for a period of 180 days imposed by the learned Metropolitan Magistrate (MM) in Complaint Case u/s 138 of the Negotiable Instruments Act, 1881 (the N.I. Act) was dismissed. During pendency of this Revision Petition, a Criminal Application No. 4/2013 was jointly moved by the Petitioner and Respondent No. 2 stating that the matter has been compromised and since the offence u/s 138 of the N.I. Act is compoundable, the Petitioner is entitled to be acquitted.

2. While dealing with the compounding of offence u/s 138 of the N.I. Act, a three Judge Bench decision of the Supreme Court in Damodar S. Prabhu Vs. Sayed Babalal H., laid down certain guidelines for imposition of costs payable to the

Legal Services Authority. It was stated that if the application for compounding of the offence is made at the first or the second hearing of the case, the compounding may be allowed without imposing any costs on the accused. Thereafter, the costs to be imposed was to vary between 10% to 20% depending upon the stage at which the application for compounding was moved by the accused. Para 21 of the report is extracted hereunder:-

21. With regard to the progression of litigation in cheque bouncing cases, the learned Attorney General has urged this Court to frame guidelines for a graded scheme of imposing costs on parties who unduly delay compounding of the offence. It was submitted that the requirement of deposit of the costs will act as a deterrent for delayed composition, since at present, free and easy compounding of offences at any stage, however belated, gives an incentive to the drawer of the cheque to delay settling the cases for years. An application for compounding made after several years not only results in the system being burdened but the complainant is also deprived of effective justice. In view of this submission, we direct that the following guidelines be followed:

THE GUIDELINES

(i) In the circumstances, it is proposed as follows:

(a) That directions can be given that the writ of summons be suitably modified making it clear to the accused that he could make an application for compounding of the offences at the first or second hearing of the case and that if such an application is made, compounding may be allowed by the court without imposing any costs on the accused.

(b) If the accused does not make an application for compounding as aforesaid, then if an application for compounding is made before the Magistrate at a subsequent stage, compounding can be allowed subject to the condition that the accused will be required to pay 10% of the cheque amount to be deposited as a condition for compounding with the Legal Services Authority, or such authority as the court deems fit.

(c) Similarly, if the application for compounding is made before the Sessions Court or a High Court in revision or appeal, such compounding may be allowed on the condition that the accused pays 15% of the cheque amount by way of costs.

(d) Finally, if the application for compounding is made before the Supreme Court, the figure would increase to 20% of the cheque amount.

3. The instant case falls within Clause (c) of the aforementioned guidelines. The amount of the cheque in this case is Rs. 27 lacs. The Petitioner would be liable to pay the costs to the extent of 15% of the cheque amount, that is, Rs. 4,05,000/-.

4. Thus, in terms of the compromise and compounding of the offence, the Petitioner is acquitted of the charges, subject to deposit of Rs. 4,05,000/- as

costs with the Delhi High Court Legal Services Committee within eight weeks and filing a receipt with the Registrar General of this Court within two weeks thereafter.

5. The Petition is disposed of in above terms. Pending Applications also stand disposed of.