

(2017) 01 JH CK 0177
In the Jharkhand High Court
Case No : 6 of 2016

Electrosteel Steels Limited

APPELLANT

Vs

The Divisional Forest Officer & Ors

RESPONDENT

Date of Decision : 25-01-2017

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 202](#) - Postponement of issue of process
[Negotiable Instruments Act, 1881](#), [Section 138](#) - Dishonour of cheque for insufficiency,

Citation : (2017) 01 JH CK 0177

Hon'ble Judges : RONGON MUKHOPADHYAY

Bench : SINGLE BENCH

Advocate : Sheo Kumar Singh, Sudhir Kumar Roy, Kaushik Sarkhel

Judgement

1. This interlocutory application has been preferred by the petitioner for exempting to surrender in terms of Rule 159 of the Jharkhand High Court Rules.
2. It appears that the petitioner was convicted for the offence punishable under Section 138 of the Negotiable Instruments Act and was sentenced to undergo rigorous imprisonment for four months and was also directed to make payment of compensation of Rs. 60,000/- to the complainant. A joint compromise petition has been filed by the parties being I.A. No. 8270 of 2016 in which it appears that the amount of Rs. 60,000/- has already been paid to the opposite party no. 2 on the basis of the compromise.
3. Since the matter has been compromised it would be appropriate to grant exemption to the petitioner from surrendering. Accordingly, this application is allowed and the petitioner is exempted to surrender before the learned trial court pursuant to the order of conviction and its subsequent affirmation in appeal.
4. I. A. No. 1209 of 2016 is allowed and disposed of. Cr. Revision No. 6 of 2016
5. This application has been preferred by the petitioner against the judgment

dated 08.10.2015 passed by the learned Additional Sessions Judge XI, Hazaribagh in Criminal Appeal No. 62 of 2015 by which

the judgment of conviction and sentence dated 20.03.2015 passed in Complaint Case No. 2346 of 2013 by the learned Judicial Magistrate, Hazaribagh convicting the petitioner for the offence punishable under Section 138 of the Negotiable Instruments Act and sentencing him to four months rigorous imprisonment along with compensation of Rs. 60,000/- has been affirmed.

6. It appears from the complaint petition that an amount of Rs. 50,000/- was taken by the petitioner on the plea of purchasing a piece of land and account payee cheque in the name of complainant of Rs. 50,000/- was issued which, however, got dishonored due to insufficiency of funds leading the complainant to file a complaint petition. Pursuant to the enquiry conducted under Section 202 of the Cr.P.C. cognizance was taken under Section 138 of the Negotiable Instruments Act. In course of trial the prosecution having found his case beyond all reasonable doubt the petitioner was convicted under Section 138 of the Negotiable Instruments Act and was sentenced to undergo four months rigorous imprisonment as also pay a compensation of Rs. 60,000/- to the complainant. The appeal filed subsequently being Criminal Appeal No. 62 of 2015 was also dismissed on 08.10.2015. During the pendency of this application the matter seems to have been settled as would appear from the Interlocutory Application No. 1209 of 2016 which is by way of a joint compromise petition wherein it has been categorically stated that the amount of Rs. 60,000/- pursuant to the compromise has already been paid to the opposite party no. 2 which includes Rs. 50,000/- which was paid by cheque and Rs. 10,000/- by cash.

7. The learned counsel for the opposite party no. 2 has based his argument on the joint compromise petition and has submitted that he does not want to proceed further in the criminal case so instituted.

8. In view of the compromise which has been arrived at and the dispute being purely private in nature having been settled between the parties, in such circumstance, therefore, this application is allowed on the basis of compromise and the impugned judgment dated 08.10.2015 passed by the learned Additional Sessions Judge ? XI, Hazaribagh in Criminal Appeal No. 62 of 2015 by which the judgment of conviction and sentence dated 20.03.2015 passed in Complaint Case No. 2346 of 2013 by the learned Judicial Magistrate, Hazaribagh has been affirmed are, hereby, set aside.

9. Pending I.A., if any, also stands disposed of.