

(2021) 01 RAJ CK 0153

In the Rajasthan High Court

Case No : Criminal Revision Petition No. 25 Of 2021 & Criminal Revision Petition No. 30 Of 2021

Kishan Lal @ Kishan Das

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 15-01-2021

Acts Referred:

Negotiable Instruments Act, 1881 — Section 138, 147

Citation : (2021) 01 RAJ CK 0153

Hon'ble Judges : Dr. Pushpendra Singh Bhati, J

Bench : Single Bench

Advocate : C.S. Rajpurohit, Gaurav Singh

Final Decision : Disposed Of

Judgement

In wake of onslaught of COVID-19, abundant caution is being taken while hearing the matters in Court.

It is stated at the Bar that a compromise has been arrived at between the parties after the judgment dated 12.09.2019 passed by the appellate court

whereby the judgment dated 18.05.2018 passed by the trial has been affirmed.

It is borne out that the complainant is not inclined to proceed further in

the matter. Learned counsel for the parties have placed reliance on a decision of Supreme Court in case of Damodar S. Prabhu vs Sayed Babalal H

[2010(5) SCC 66].

Having considered the facts and circumstances of the case, since the parties have settled the dispute and complainant respondent No.2 had accepted

the sum towards full and final settlement of the cheque, on the satisfaction of the complainant and in the light of provisions of Section 147 of NI Act

and in view of law laid down by the Hon'ble Apex Court in the case of Damodar

S. Prabhu Vs. Sayed Babalal H. (supra), the sentence awarded to the petitioner for offence under Section 138 NI Act is liable to be set aside. However, since the compromise has been arrived at after rejection of the appeal preferred by the petitioner, a cost of 15% of the cheque amount deserves to be imposed upon the petitioner in the light of the decision rendered by the Hon'ble Apex court in the case of Damodar S. Prabhu (Supra). Accordingly, the petitioner is directed to deposit 15% of the cheque amount with the State Legal Services Authority, Jodhpur within a period of two weeks from today.

The conviction and sentence of imprisonment awarded to the petitioner for offence under Section 138 Negotiable Instruments Act, vide judgment dated 18.05.2018 passed by the learned Special Judicial Magistrate (N.I. Act Cases) No.4, Jodhpur Metropolitan in criminal case No.23/2015 as affirmed by judgment dated 12.09.2019 passed by learned Additional Sessions Judge No.5, Jodhpur Metropolitan in Criminal Appeal No.287/2018, is hereby set aside on the basis of the aforesaid compromise.

The revision petition is disposed of accordingly. Stay petition also stands disposed of.