(2021) 09 DEL CK 0232

In the Delhi High Court

Case No : Criminal Revision Petition No. 59 Of 2020

M/S Nikhil Infratech Ltd. & Ors. APPELLANT

Vs

M/S Intec Capital Ltd RESPONDENT

Date of Decision : 23-09-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 397, 401
Negotiable Instruments Act, 1881 — Section 138

Citation : (2021) 09 DEL CK 0232

Hon'ble Judges : Manoj Kumar Ohri, J

Bench : Single Bench

Advocate : Karanpreet Singh, Rohit Garg, Mehvish Khan

Final Decision : Disposed Of

Judgement

Manoj Kumar Ohri, J

1. The present revision petition has been filed under Section 397 Cr.P.C. read with Section 401 Cr.P.C. on behalf of the petitioners seeking setting aside of the judgment dated 18.01.2020 passed by the learned Addl. Sessions Judge-02, South East District, Saket Court, Delhi in Criminal Appeal No. 78/17 and the judgment on conviction dated 18.01.2017 passed by the learned Metropolitan Magistrate, South East, Saket Court, New Delhi in Complaint Case No. 346/2/13 (614363/16). Vide the impugned judgment on conviction passed by the learned Metropolitan Magistrate, the petitioners were convicted for the offence punishable under Section 138 of the N.I. Act. Vide order on sentence dated 25.01.2017, petitioner Nos. 2, 3 and 4 were sentenced to undergo Simple Imprisonment for a period of 2 years, 6 months and 3 months respectively, alongwith fine of Rs.6,80,208/- to be paid by all petitioners including petitioner No. 1, in default whereof petitioner Nos. 2, 3 and 4 were directed to undergo Simple Imprisonment for 6 months each. Feeling aggrieved with the aforesaid judgment of conviction and order on sentence, the petitioners preferred an appeal before the Sessions Court and vide the impugned judgment dated

18.01.2020, the sentence of petitioner No. 2 was modified and reduced to Simple Imprisonment for 1 year, while sentences of other petitioners were left undisturbed.

2. Brief facts, as noted in the impugned judgment on conviction, are as follows:-

"The facts of the case as per the complaint are that in discharge of dues and liabilities the accused have issued cheques bearing No. 006138, 006139, and 006140 dated 01.03,2010, 01.04.2010 and 01.05.2010 respectively for Rs. 1,13,368/- each drawn on State Bank of India, South Extension Part-1, New Delhi. The said cheques on being presented by the complainant to his bank was got dishonoured vide bank memo dated 06.09.2010 for the ground " Stop Payment" and the accused failed to make the payment of said cheque amount despite service of notice dated 30.09.2010."

3. On 21.01.2020, learned counsel for the petitioners stated that the petitioners were ready to pay the entire fine amount imposed by the Trial Court and also handed over Demand Draft bearing No. 76668 dated 20.01.2020 for an amount of Rs. 3,30,208/- and Demand Draft bearing No. 503499 dated 21.01.2020 for an amount of Rs. 3,50,000/- to Deputy Manager (Legal) of the respondent.

4. In furtherance of the above, the petitioners' sentence was suspended and they were directed to be released on bail during the pendency of the proceedings. However, the petitioners were directed to pay 15% of the cheque amount to Delhi State Legal Services Authority, Patiala House Courts Complex, New Delhi (DSLSA) in terms of the decision of the Supreme Court in Damodar S. Prabhu v. Sayed Babalal H. reported as (2010) 5 SCC 663.

5. On the last date of hearing, learned counsel for the respondent submitted that the matter has been compromised between the parties and the entire settlement amount has been received by the respondent, wherefore it is left with no claim whatsoever against the petitioners. It was pointed out that the petitioners had not complied with the order dated 21.01.2020.

6. Learned counsel for the petitioners submits that the order dated 21.01.2020 has been complied with. He further submits that 15% of the cheque amount has already been deposited with the DSLSA and the receipt has been placed on record.

7. In view of the above, learned counsel for the respondent submits that the respondent is now left with no grievance against the petitioners and has no objection if the present proceedings are allowed to be compounded and the petitioners are acquitted.

8. In Damodar S. Prabhu (Supra), guidelines were framed by the Supreme Court on compounding of offences under Section 138 N.I. Act, where it was proposed as follows :-

"...(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."

9. In view of the settlement arrived at between the parties, the no-objection given by the complainant and the exposition of law outlined above, the offence under Section 138 of the N.I. Act against the petitioners is permitted to be compounded. The petitioners stand acquitted.

10. With the above directions, the petition is disposed of.