
(2019) 05 RAJ CK 0067

In the Rajasthan High Court

Case No : Criminal Revision Petition No. 486 Of 2019

Pukhraj Gehlot

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 09-05-2019

Acts Referred:

Negotiable Instruments Act, 1881 — Section 138, 147

Citation : (2019) 05 RAJ CK 0067

Hon'ble Judges : Manoj Kumar Garg, J

Bench : Single Bench

Advocate : KL Thakur, Gaurav Singh, RK Chouhan

Final Decision : Disposed Off

Judgement

This revision petition has been filed against the judgment dated 11.03.2019 passed by the learned Special Judge, SC/ST (Prevention of Atrocities Cases), Udaipur whereby the appeal of the petitioner has been dismissed and the judgment dated 12.01.2018 passed by the learned Special Judicial Magistrate (NI Act Cases) No.4, Udaipur for offence under Section 138 N.I. Act has been affirmed and the petitioner sentenced to undergo one month's simple imprisonment along with fine in the sum of Rs.25,000/-.

Counsel for the petitioner submits that during the pendency of the revision petition, the petitioner and complainant-respondent No.2 have entered into a compromise in the spirit of Lok Adalat and the respondent No.2 has received all the amount from the petitioner and does not want to proceed in the matter. The photo-stat copy of the compromise dated 02.05.2019 has been passed over to this Court during the course of argument, which shall be formed part of the record. It is stated that since the parties have entered into compromise and amicably settled their dispute, therefore, the sentence of imprisonment awarded to the petitioner may be set aside.

Counsel for the respondent No.2 concurs the fact of compromise dated

02.05.2019 arrived between the parties.

Having considered the facts and circumstances of the case, since the parties have settled the dispute and complainant respondent No.2 has accepted the sum towards full and final settlement of dispute 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. reported in 2010 (5) SCC 663, 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 conviction and sentence of imprisonment awarded to the petitioner for offence under Section 138 NI Act vide judgment dated 12.01.2018 and 11.03.2019 is hereby set aside on the basis of the aforesaid compromise subject to deposition of cost of 15% of the cheque amount. The cost shall be deposited by the petitioner with the Rajasthan State Legal Services Authority, Jodhpur within a period of four weeks from today. In case the cost is not deposited by the petitioner within the stipulated period, the revision petition may be listed before this Court for passing appropriate orders.

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