
(2014) 12 RAJ CK 0194
In the Rajasthan High Court
Case No : Cr. Revision Petition No. 449/2004

Satpal

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 04-12-2014

Acts Referred:

Negotiable Instruments Act, 1881 (NI) — Section 138

Citation : (2015) 1 WLN 282

Hon'ble Judges : Vijay Bishnoi, J

Bench : Single Bench

Advocate : M.K. Garg, Advocate for the Appellant; L.R. Upadhyaya, Public Prosecutor and Pankaj Gupta, Advocate for the Respondent

Judgement

Vijay Bishnoi, J.—The matter is listed today for disposal in the spirit of Lok Adalat.

2. This criminal revision petition has been preferred by the petitioner against the judgment dated 08.07.2004 passed by Sessions Judge, Sri Ganganagar (for short "the appellate court" hereinafter), whereby the Cr. Appeal No. 24/2004 filed by the petitioner against the judgment dated 04.02.2004 passed by the Additional Chief Judicial Magistrate, Sri Ganganagar (for short "the trial court" hereinafter), has been dismissed.

3. The trial court in Cr. Case No. 44/2001 has convicted the petitioner for the offence punishable under section 138 of the N.I. Act and sentenced him to undergo four months" rigorous imprisonment and also imposed a fine of Rs. 35,000/-.

4. Brief facts of the case are that the petitioner had borrowed a sum of Rs. 25,000/- from respondent No. 2 and for that, the petitioner gave a cheque of Rs. 25,000/- dated 31.07.2000 to the respondent No. 2. However, when the said cheque was presented in the Bank for encashment, it was dishonoured due to insufficient fund in the bank account of the petitioner and, therefore, a notice was sent to the petitioner through an Advocate but the cheque amount was not

paid to the respondent No. 2, then complaint under section 138 of the N.I. Act was filed by him.

5. The trial court, after taking into consideration the evidence produced by the parties, passed the judgment dated 04.02.2004 and convicted the accused-petitioner for the offence punishable under section 138 of the N.I. Act and sentenced him to undergo four months" simple imprisonment and imposed a fine of Rs. 35,000/-. The appeal against the judgment of the trial court has also been dismissed by the appellate court against which the petitioner has preferred this revision petition.

6. Today, the learned counsel for the petitioner has submitted that for disposal of this revision petition in the spirit of Lok Adalat, he does not want to challenge the orders passed by the trial court as well as the appellate court on merits and submitted that the petitioner is ready to pay the cheque amount of Rs. 25,000/- to the respondent No. 2 within a period of two months from the date of this order and prayed that the impugned judgments may kindly be set aside.

7. It is noticed that despite personal service of notice upon the respondent No. 2 on 27.10.2004, he has chosen not to put in appearance either personally or through advocate.

8. In such circumstances and looking to the willingness of the petitioner to pay the cheque amount of Rs. 25,000/- to the respondent No. 2 within a period of two months, this is a fit case, which can be disposed of in the spirit of Lok Adalat. Hence, without going into the merits of the revision petition, the judgment impugned passed by the trial court as well as the appellate court are set aside with a condition that the petitioner shall pay the amount of Rs. 25,000/- to the respondent No. 2 within a period of two months from today. The petitioner is directed to file an undertaking of this effect before the trial court within fifteen days from today. It is made clear that if the petitioner fails to submit an undertaking as directed above before the trial court within stipulated time and even after filing such undertaking fails to pay the amount of Rs. 25,000/- to the respondent No. 2 within the stipulated period, the orders passed by both the courts below shall be revived automatically.

9. The revision petition is disposed of accordingly.