
(2002) 03 SC CK 0018

In the Supreme Court Of India

Case No : Criminal Appeal No. 341 Of 2002

Sivasuriyan

APPELLANT

Vs

Thangavelu

RESPONDENT

Date of Decision : 08-03-2002

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 357(3)
Negotiable Instruments Act, 1881 (NI) — Section 138, 142

Citation : (2002) 1 LW(Cri) 465 : (2006) 2 OLR 105

Hon'ble Judges : K. G. Balakrishnan, J; G. B. Pattanaik, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. Leave granted.

2. Accused is in appeal against the impugned order of the High Court in exercising revisional power at the behest of the complainant. On the basis of a complaint filed u/s 138 read with 142 of the Negotiable Instruments Act, the Magistrate took cognizance, issued process and finally disposed of the matter holding accused guilty and convicting him thereunder. For such conviction, the Magistrate sentenced to undergo six months rigorous imprisonment and fine of Rs. 5000. Against the aforesaid conviction and sentence, the accused moved in appeal and the learned Additional Sessions Judge upheld the conviction, but modified the sentence. The Additional sessions Judge directed that the sentence should be till rising of court, but the fine amount already directed was affirmed. Against this order of the Additional Sessions Judge, the complainant moved in revision. The High Court in exercise of its revisional jurisdiction, in paragraph 7 of the impugned judgment while affirmed the sentence imposed by the appellate Court, further directed that the accused should pay a compensation of Rs. one Lakh u/s 357 of the Code of Criminal Procedure. It is this direction to pay compensation is being questioned in this appeal.

3. It is contended by the learned counsel for the appellant that power under Sub-

section (3) of Section 357 of the Code can be exercised in a case where fine does not form a part of a sentence, which is imposed and in the case in hand fine already having been imposed, the Court's power under Sub-section (3) of Section 357 could not have been exercised. The learned Counsel for the complainant-respondent, on the other hand, submitted that in view of the nature of accusation in question in the facts and circumstances, the Court was justified in entertaining into the sufficiency of the sentence and directing award of compensation.

4. In view of the submission made, the only question that arises for consideration is whether the Court can direct payment of compensation in exercise of power under Sub-section (3) of Section 357 in a case where fine already forms a part of the sentence. Apart from Sub-section (3) of Section 357 there is no other provision under the code whereunder the Court can exercise such power.

" Sub-section (3) of Section 357: when a Court imposes a sentence, of which fine does not form a part, the Court may, when passing judgment, order the accused person to pay, by way of compensation, such amount as may be specified in the order to the person who has suffered any loss or injury by reason of the act for which the accused person has been so sentenced."

5. On a plain reading of the aforesaid provision, it is crystal clear that the power can be exercised only when the court imposes sentence by which fine does not form a part. In the case in hand, a Court having sentenced to imprisonment, as also fine, the power under Sub-section (3) of Section 357 could not have been exercised. In that view of the matter, the impugned direction of the High Court directing payment of compensation to the tune of Rs. one Lakh by the appellant is set aside.