

(2011) 08 RAJ CK 0071

In the Rajasthan High Court

Case No : Criminal Revision Petition No. 600 of 2011

Smt. Sunita Bhatia

APPELLANT

Vs

Radhey Shyam and Another

RESPONDENT

Date of Decision : 10-08-2011

Acts Referred:

Negotiable Instruments Act, 1881 (NI) — Section 138, 147

Citation : (2011) 08 RAJ CK 0071

Hon'ble Judges : Gopal Krishan Vyas, J

Bench : Single Bench

Judgement

Gopal Krishan Vyas, J.—This revision petition has come up upon application filed by the Petitioner narrating therein that in view of the compromise arrived at in between the parties the matter may be finally decided as per judgment of the Hon"ble Supreme Court in the case of Damodar S. Prabhu, reported in 2010 (1) WLC (SC) 745, in which it has been held that conviction u/s 138 of the Negotiable Instruments Act, 1881 can be quashed at revisional stage also as contemplated u/s 147 of the Act.

2. Both the parties are present in person and they furnished compromise arrived at in between the parties. The Deputy Registrar (Judl.), Rajasthan High Court, Jodhpur verified the said compromise as per direction of this Court. The same is hereby taken on record.

3. After hearing learned Counsel for the parties, I have perused the judgment of the Hon"ble Supreme Court. In para 2 of the said judgment, their Lordships of the Supreme Court held as follows:

The present appeals are in respect of litigation involving the offence enumerated by Section 138 of the Negotiable Instruments Act, 1881 (hereinafter "Act"). It is not necessary for us to delve into the facts leading up to the institution of proceedings before this Court since the Appellant and the Respondent have arrived at a settlement and prayed for the compounding of the offence as

contemplated by Section 147 of the Act. It would suffice to say that the parties were involved in commercial transactions and that disputes had arisen on account of the dishonour of five cheques issued by the Appellant. Thereafter, the parties went through the several stages of litigation before their dispute reached this Court by way of special leave petitions. With regard to the impugned judgments delivered by the High Court of Bombay at Goa, the Appellant has prayed for the setting aside of his conviction in these matters by relying on the consent terms that have been arrived at between the parties. The Respondent has not opposed this plea and, therefore, we allow the compounding of the offence and set aside the Appellant's conviction in each of the impugned judgments.

4. While following the aforesaid judgment, I deem it appropriate to quash the judgment rendered by the trial Court dated 24.01.2008 passed by the Addl. Chief Judl. Magistrate, Phalodi in Criminal Case No. 491/2003 and, so also, judgment passed by the Addl. Sessions Judge, Phalodi in Criminal Appeal No. 3/2008 dated 05.07.2011 on the basis of the compromise arrived at in between the parties. Ordered accordingly.

5. The bail bonds furnished are hereby discharged. This revision petition is accordingly disposed of.