
(2010) 02 JH CK 0103
In the Jharkhand High Court

Sunil Kumar Singh

APPELLANT

Vs

The State of Jharkhand and Rintu Kumar Choudhary @
Chottan

RESPONDENT

Date of Decision : 23-02-2010

Acts Referred:

Negotiable Instruments Act, 1881 (NI) — Section 138

Citation : (2010) 3 BC 568

Hon'ble Judges : Dilip kumar sinha, J

Bench : Single Bench

Judgement

D.K. Sinha, J.—This criminal revision is directed against the order impugned dated 19.2.2009, passed by the learned Sessions Judge, East Singhbhum, Jamshedpur by which Criminal Appeal No. 97 of 2008 preferred by the petitioner against his conviction u/s 138 of the Negotiable Instrument Act was dismissed and the judgment and order recorded by the Judicial Magistrate, 1st Class, Jamshedpur in C/1 Case No. 486 of 2006, corresponding to T.R. No. 1126 of 2008 was affirmed and upheld, whereby the petitioner was directed to undergo simple imprisonment for six months and to pay fine of Rs. 35,000/- as compensation to the complainant-opposite party No. 2.

2. When this criminal revision is taken up for consideration, a joint compromise petition was filed on behalf of the petitioner and the opposite party No. 2 stating, inter alia, that due to intervention of common friends and well wishers, parties have entered into amicable settlement and pursuant to that, the petitioner has already paid a sum of Rs. 50,000/- to the complainant-opposite party No. 2 against the money receipt dated 17.9.2009 and the Xerox copy of such money receipt has been brought on the record in the interlocutory application (I.A. No. 2358 of 2009). The learned Counsels, for the parties herein submitted that the petitioner and the opposite party No. 2 have no longer grievance against each other as the complainant opposite party No. 2 has been adequately compensated, as such the opposite party No. 2 did not wish to oppose the

criminal revision that has been brought about by the petitioner. The counsel for the opposite party No. 2 by substantiating the compromise petition further submitted that the opposite party No. 2 would have no objection, if the criminal revision is allowed by dropping the proceeding and setting aside the sentence awarded to the petitioner by substituting it with compensation. The compromise between the parties was arrived without there being demur, threat or coercion and out of their own wisdom and free will. The compromise petition (I.A. No. 2358 of 2009) has been supported by an affidavit, duly sworn by the petitioner Sunil Kumar Singh and by the opposite party No. 2 Rintu Kumar Choudhary @ Chottan. Their signatures were duly identified in the affidavit. A counter-affidavit was also filed on behalf of the opposite party No. 2 in the criminal revision supporting the contention of the compromise petition and the learned Counsel Mr. Indrajit Sinha submitted that in view of such composition, the sentence of imprisonment against the petitioner may be set aside in the backdrop that the opposite party No. 2 has been adequately compensated by accepting payment of Rs. 50,000/- from the petitioner against the receipt.

3. Having regard to the facts and circumstances of the case, since the parties have settled their disputes and the opposite party No. 2-complainant has been adequately compensated, I am of the opinion that petitioner should be dealt with leniently to which the complainant opposite party No. 2 has got no objection as discussed hereinbefore.

4. In the result, taking the lenient view, sentence of imprisonment imposed upon the petitioner Sunil Kumar Singh is set aside and the fine imposed upon him is confirmed. Since the petitioner has already compensated the complainant opposite party No. 2 by giving Rs. 50,000/- much beyond the amount of fine to the extent of Rs. 35,000/-, sentence of imprisonment awarded to the petitioner by the order of the Judicial Magistrate that has been affirmed in appeal is set aside.

5. Accordingly, this criminal revision is allowed and disposed of in the manner indicated above.