



THE HIGH COURT OF SIKKIM AT GANGTOK
(Criminal Revisional Jurisdiction)

J U D G M E N T

S.B. Crl. Rev. P. No. 03 of 2014

Shri Mahendra Pradhan,
S/o late Bhim Singh Pradhan,
R/o Daragaon, Tadong,
East Sikkim.

.... **Petitioner/ Revisionist.**

- versus -

1. Shri Hanuman Prasad Agarwal,
S/o late Mani Ram Agarwal,
R/o Diesel Power House Road,
Gangtok, East Sikkim.
2. The State of Sikkim.

.... **Respondents.**

CORAM

HON'BLE THE CHIEF JUSTICE
MR. JUSTICE N. K. JAIN

Date of Judgment : 17.07.2014

For Petitioner : Mr. Rapden Pintso Lepcha,
Advocate.

Mr. Mahendra Pradhan,
petitioner with his wife Mrs.
Sangita Pradhan, in persons.



For Respondent No. 1 : Mr. Sudesh Joshi, Advocate.

Mr. Hanuman Prasad
Agarwal, respondent No. 1,
in person.

For Respondent No. 2 : Ms. Pollin Rai, Asstt. Public
Prosecutor.

Jain, CJ (Oral).

Heard learned counsel for the parties.

2. The complainant/respondent No. 1, Hanuman Prasad Agarwal filed a private complaint Case No. 27 of 2010, under Section 138 of the Negotiable Instruments Act, 1881 (for short, “the Act of 1881”) against the accused/petitioner in the trial Court in respect of dishonour of cheque worth Rupees ten lakhs.

3. During trial of case, an effort was made for compromise between parties, a sum of Rupees three lakhs were paid by accused to complainant, however, matter could not be compromised. After completion of trial and hearing the submissions of learned counsel for the parties, the trial Court i.e. Judicial Magistrate, First Class, East Sikkim at Gangtok, convicted the petitioner under Section 138 of the



Act of 1881, vide judgment dated 24.10.2013. Thereafter, the Judicial Magistrate, vide order dated 29.10.2013, instead of awarding any order of imprisonment, imposed a fine of Rs.5000/- under Section 138 of the Act of 1881, in default of payment of fine, the convict shall undergo simple imprisonment of one month. In addition to sentence of fine, the Judicial Magistrate also directed that the accused shall pay compensation amounting to Rs.9.00 lakhs to the complainant and in default of payment of amount of compensation, the convict shall undergo simple imprisonment of six months.

4. Being aggrieved with the order of conviction and sentence, an appeal was preferred by the petitioner before the Principal Sessions Judge, East and North Sikkim at Gangtok, which was registered as Crl. Appeal Case No. 01 of 2014. The learned Principal Sessions Judge, vide her order dated 14.02.2014, dismissed the appeal of the petitioner on the ground of limitation alone. Thereafter, the petitioner preferred the present Revision Petition. This Court admitted the Revision Petition and issued notice to respondents.



5. Since, the amount of compensation, as directed was not paid by petitioner, therefore, an Application was moved for stay of the operation of the judgment and order passed by Judicial Magistrate. Since Rs. 4.00 lakhs were paid during trial and Rs. 3.00 lakhs were paid on three different dates before this Court by the petitioner to the complainant, this Court directed vide order dated 25.03.2014 passed in Crl. M. Appl. No. 05 of 2014 that the order of imprisonment in default of payment of fine and compensation passed against the petitioner shall remain stayed during pendency of this Revision Petition. The petitioner, thereafter, further paid Rs.40,000/- during the pendency of the Revision Petition.

6. Today, both the parties are present in person and they have been identified by their respective counsel. Both the parties have filed a joint application duly signed by them, under Section 147 of the Act of 1881, supported by their affidavits, wherein they have stated that they have entered into a compromise on the terms and conditions, which have been mentioned in the Application. Both the



parties have prayed that this Revision Petition be disposed off in terms of compromise.

7. The offence under Section 138 of the Act of 1881, is compoundable under Section 147 of the Act of 1881. Since both the parties have entered into compromise, therefore, this Revision Petition deserves to be allowed and the same is hereby allowed. The orders of conviction and sentence dated 24.10.2013 and 29.10.2013 respectively passed by the Judicial Magistrate, First Class, East Sikkim at Gangtok in Private Complaint Case No. 27 of 2010, and order dated 14.02.2014 passed by the Principal Sessions Judge, East and North Sikkim at Gangtok in Crl. Appeal Case No. 01 of 2014, are hereby set aside. The petitioner is acquitted from the charge leveled against him.

8. A copy of the joint application, wherein terms of compromise have been mentioned, will form part of this order.

(N.K. Jain)
Chief Justice
17.07.2014

Approved for reporting: ~~Yes~~ / No
Internet : Yes / ~~No~~

pm/ jk

