

Cr.R. No. 684 Of 2016

30.06.2016

Shri Pankaj Kumar Sohani, learned counsel for the applicant.

Shri Neeraj Gaur, learned counsel for the respondent.

Heard the parties on I.A. No. 5604/16, an application under Section 147 of the N.I.Act, 1881 seeking leave to compound in this revision petition which has been preferred against the judgment dated 28/05/16 passed by 2nd Addl. Sessions Judge, Shujalpur, Distt. Shajapur, whereby the applicant has been convicted under Section 138 of the N.I.Act and sentenced to undergo six months RI with compensation of Rs.1,52,500/-.

Learned counsel for the applicant drew my attention to the decision of the Apex Court in the matter of Damodar S. Prabhu vs. Sayad Babalal H. reported in (2010) 5 SCC 663 and submitted that the application under Section 147 of the N.I.Act for compounding the offence be allowed and the offence be compounded, because the applicant has already paid the whole amount with costs and expenses to the respondent.

In the case of Damodar S. Prabhu (supra) the Hon'ble Supreme Court has held that if the application for compounding the offence is made before a High Court in revision, such compounding may be allowed on the condition that the accused must pay 15% of the cheque amount by way of costs. The Supreme Court also observed that the competent Court of-course reduce the costs with regard to the specific facts and circumstances of the case, while recording reasons in writing for such variance.

The respondent and his counsel made a statement at bar that the amount compensation/fine awarded by the trial Court while convicting the petitioner in the matter of 138 of the N.I.Act, 1881 has been fully paid by the petitioner and he has no objection

if conviction awarded by the Court below is compounded by payment of 15% of the cheque amount by way of costs.

Considering the aforesaid, I.A. No.5604/16 is hereby allowed on the condition that the applicant shall pay 15% of the cheque amount by way of costs to the High Court Legal Services Authority.

With the aforesaid, this criminal revision stands allowed and disposed of.

Consequently, the impugned judgment is set aside.

C.c. as per rules.

(D.K.Paliwal)
Judge

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