

IN THE HIGH COURT OF KARNATAKA
DHARWAD BENCH

DATED THIS THE 30th DAY OF JUNE, 2016

BEFORE

THE HON'BLE MR.JUSTICE A.N.VENUGOPALA GOWDA

CRIMINAL REVISION PETITION NO.2032/2012

BETWEEN:

M R CHOKKLINGAM
AGE: 92 YEARS, OCC: NIL,
R/O GOKUL ELECTORNICS,
J N ROAD, DANDELI,
TQ: HALIYAL (U K)

... PETITIONER

(By Sri. K M SHIRALLI & Sri. T R PATIL, ADVS.)

AND:

AKSHAYA CO-OPERATIVE
CREDIT SOCIETY LTD,
DANDELI BRANCH, DANDELI
REPRESENTED BY ITS MANAGER,
JOSEPH L NARONHA, AGE: MAJOR,
R/O DANDELI, TQ: HALIYALA (U K)

... RESPONDENT

(By Sri. DINESH M KULKARNI, ADV.)

THIS CRIMINAL REVISION PETITION IS FILED U/S. 397 R/W 401 OF CR.P.C PRAYING TO CALL FOR RECORDS IN C.C NO.03/2006, ON THE CIVIL JUDGE (JR.DN) JMFC COURT DANDELI AND RECORDS IN CRL.A.NO.167/2007, FROM THE FILE OF THE FAST TRACK COURT NO.1 KARWAR AND SET ASIDE THE JUDGMENT DATED 18.09.2007 PASSED IN C.C NO.03/2006 PASSED BY THE COURT OF CIVIL JUDGE (JR.DN) JMFC COURT DANDELI, CONVICTING THE PETITIONER FOR THE OFFENCES P/U/S 138 OF N.I ACT AND SENTENCING HIM TO PAY FINE OF RS.5000/- IN DEFAULT TO SUFFER S.I FOR 3 MONTHS AND ALSO PAY COMPENSATION OF RS.9,07,000/- TO THE COMPLAINANT-SOCIETY WITH DEFAULT SENTENCE AND ALSO SET-ASIDE THE JUDGMENT DATED 14.12.2011 PASSED IN CRL.A.NO.167/2007 PASSED BY THE FTC NO.1 KARWAR, CONFIRMING THE JUDGMENT OF CONVICTION OF THE TRIAL COURT AND ACQUIT, THE PETITIONER OF THE OFFENCE WITH WHICH HE HAS BEEN CONVICTED AND SENTENCED.

THIS CRIMINAL REVISION PETITION COMING ON FOR ORDERS THIS DAY, THE COURT MADE THE FOLLOWING: -

O R D E R

This petition was filed to set aside the judgment of conviction and order of sentence passed in C.C.No.3/2006 dated 18.09.2007 by the JMFC Court, Dandeli and confirmed in Crl.A.No.167/2007 vide judgment dated 14.12.2011 passed by the Presiding Officer, Fast Track Court-I, Karwar.

2. The petitioner was found guilty of offence punishable under Section 138 of N.I. Act and was sentenced to pay fine and suffer S.I. for three months and also to pay compensation to the complainant-Society.

3. The appeal filed against the judgment of conviction and sentence having been dismissed, this petition was filed on 01.02.2012.

4. Subject to deposit of a sum of Rs.2,50,000/- within six weeks, execution of impugned sentence was suspended until further orders by allowing I.A.1/2012. Extension of time was sought to comply with the said order by filing I.A.2/2012 and the extension was granted on 30.08.2012.

5. A memo having been filed on 18.10.2012, producing a copy of the order dated 25.09.2012, passed in SLA(Criminal) No.7037/2012, connected with SLA(Criminal) 7012/2012, suspending the sentence, subject to deposit of Rs.5,00,000/-, within six weeks period, the amount was deposited in the Registry.

6. The appeal was admitted on 20.07.2012. Learned advocate for the respondent/complainant having submitted on 14.03.2016, that the petitioner has died and the respondent/complainant may be permitted to withdraw the amount deposited by the petitioner/accused, finding no representation to the petitioner, in order to give an opportunity, the case was adjourned to 16.03.2016. On the adjourned date, a memo was filed and death certificate of the petitioner was produced.

7. There is no appearance for the petitioner, who is reported to have died on 30.03.2014.

8. In view of production of the death certificate, the revision petition has abated, as the LRs have not opted to come on record.

In the circumstances, the petition is held as abated.

The amount in deposit, in view of the order passed by the learned Magistrate, impugned herein, be released in favour of the respondent, subject to the condition that, in case any claim is

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made by the LRs of the deceased/petitioner, the respondent shall re-deposit the amount with 9% interest.

**Sd/-
JUDGE**

gab