



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF SEPTEMBER, 2023

BEFORE

THE HON'BLE DR. JUSTICE H.B.PRABHAKARA SASTRY

CRIMINAL REVISION PETITION NO. 1328 OF 2022 (397)

BETWEEN:

Sri. Ashwath Narayana Reddy @ A N Reddy
S/o Muniyappa Reddy
Aged About 61 Years,
R/at H.No.80, Poojamma Compound,
Halanayakana Halli,
Varthur Hobli,
Malar Taluk,
Bengaluru-560102.

...Petitioner

(By Sri.M.G. Riyazulla Khan along with
Smt. D. Kavitha, Advocates)

AND:

M/s Confident Project India Pvt Ltd
R/at Confident Propous,
No.6, Longford Town,
Hosur Main Road,
Bengaluru-560025.
Rep by its Manager, Mr. Joju Kochappan

...Respondent

(By Sri. Vivek Holla, Holla and Holla)



This Criminal Revision Petition is filed under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973, praying to set aside the judgment and orders passed by the LVI Additional City Civil and Sessions Judge, Bengaluru (CCH-57) in Crl. Appeal No.776/2021 dated 26-07-2022 and set aside the judgment and orders passed by the learned XXIV Additional Small Causes Judge and A.C.M.M. (SCCH-26) Bengaluru in C.C.No.514/2018 dated 09-09-2021, acquit the petitioner by allowing this criminal revision petition, in the interest of justice and equity.

This Criminal Revision Petition coming on for Further Hearing, through Physical Hearing/Video Conferencing Hearing this day, the Court made the following:

ORDER

Learned counsel - Sri. M.G. Riyazulla Khan is physically present and files a 'no objection' vakalath appearing along the present counsel on record Smt. D. Kavitha for the revision petitioner. The said vakalath is taken on record, however, subject to the scrutiny to be made by the registry.

2. The learned counsel for the respondent (complainant) is also physically present.



3. The revision petitioner, as identified by the learned counsel for the revision petitioner is also physically present.

4. The learned counsel for the revision petitioner Sri.M.G. Riyazulla Khan submits that, since the learned counsel - Smt. D. Kavitha is not keeping good health, she has not appeared today.

5. Learned counsel for the revision petitioner files a memo, seeking withdrawal of this revision petition.

6. Learned counsel for the respondent endorses the said memo stating his 'no objection' to withdraw the present revision petition.

7. Heard the submissions from both side on the memo.

8. The present revision petition was filed by the revision petitioner (accused) challenging the confirmation of his conviction by the Court of the LVI Additional City



Civil and Sessions Judge, Bengaluru (CCH-57), for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter for brevity referred to as "the N.I. Act").

9. At one point of time, since the learned counsel for the revision petitioner continuously remained absent from appearing in this matter, the Court proceeded to appoint an *Amicus Curiae* for the revision petitioner to prevent any further delay in the disposal of the matter. However, by the order dated 01-09-2023, the learned *Amicus Curiae* came to be relieved at the request of the learned counsel for the revision petitioner and the learned counsel for the revision petitioner was permitted to continue to appear for the petitioner. Still, at the request of the learned counsel for the revision petitioner, the matter got further adjourned on the said date as well on the dates 08-09-2023 and 15-09-2023.



10. A perusal of the order sheet would go to show that, after hearing the argument from both side, when the matter was slated for the reply argument, it was submitted that a settlement attempt was made between the parties. It is thereafter and at that stage, the matter got adjourned repeatedly to report settlement or to proceed further in the matter. It was also noticed by this Court in one such date of hearing that, in case if the parties settle the matter under Section 147 of the N.I. Act, the revision petitioner (accused) may have to pay the graded cost of a sum of ₹75,00,000/- which is ₹15% of the cheque amount, which cheque amount is a sum of ₹5,00,00,000/-. The said graded cost was required to be payable by the revision petitioner by virtue of the judgment of the Hon'ble Apex Court in the case of ***Damodar S. Prabhu Vs. Sayed Babalal H*** reported in ***AIR 2010 SUPREME COURT 1907***. After the said observation was made on the date 23-11-2022, the matter was adjourned on several occasions.



11. On the date 15-09-2023, the present learned counsel for the revision petitioner - Sri.M.G. Riyazulla Khan, as a proxy counsel for the learned counsel for the petitioner on record, made a submission that the petitioner would like to withdraw the revision petition as not pressed. Even on the said day also, a reference was made to the decision of the Hon'ble Apex Court in ***Damodar S. Prabhu's case (supra)*** regarding payment of graded cost.

12. Today, the learned counsel for the revision petitioner has filed a memo, seeking withdrawal of the said revision petition as not pressed. The learned counsel for the revision petitioner makes a supporting submission on the lines of the memo. However, the learned counsel for the respondent submits that he has 'no objection' to permit the petitioner to withdraw this petition as dismissed, however, without making any observation regarding the alleged settlement.



13. Since no application seeking permission for settlement under Section 147 of the N.I. Act has been made, this Court need not record the alleged settlement, if any, as canvassed in the memo filed today. As such, it would suffice, as submitted by the learned counsel for the respondent to accept the memo to the extent of the petitioner not pressing the revision petition. Accordingly, in view of the memo filed today and the submission made from both side, the present revision petition stands dismissed as not pressed.

Sd/-
JUDGE

BMV*
List No.: 1 Sl No.: 1