2024 PLRonline 0004

SUPREME COURT OF INDIA

Present : Mr. Justice A.S. Bopanna and Mr. Justice Sudhanshu Dhulia.

RAJ REDDY KALLEM – Appellant,

Versus

THE STATE OF HARYANA and another – Respondents.

CRIMINAL APPEAL NO. 2210 OF 2024 (ARISING OUT OF SLP (CRL) No. 629 OF 2023)

Negotiable Instruments Act, 1882 Section 138 – Compounding – Though the complainant has been duly compensated by the accused yet the complainant does not agree for the compounding of the offence, the courts cannot compel the complainant to give 'consent' for compounding of the matter – It is true that mere repayment of the amount cannot mean that the appellant is absolved from the criminal liabilities under Section 138 of the NI Act – But this case has some peculiar facts – Even though complainant is unwilling to compound the case but, considering the totality of facts and circumstances of the case we are of the considered view that these proceedings must come to an end – In order to do complete justice, we exercise our powers under Article 142 of the Constitution of India, and hereby quash all the pending criminal appeals and set aside the conviction and sentence awarded to the appellant by the trial court.

On facts: Initially, both sides agreed to compound the offence at the appellate stage but the appellant could not pay the amount within the time stipulated in the agreement and the complainant now has shown her unwillingness towards compounding of the offence, despite receiving the entire amount – Appellant has paid the entire Rs.1.55 crore and further Rs.10 lacs as interest . Even though the complainant has been duly compensated by the accused yet the complainant does not agree for the compounding of the offence, the courts cannot compel the complainant to give 'consent' for compounding of the matter. It is also true that mere repayment of the amount cannot mean that the appellant is absolved from the criminal liabilities under Section 138 of the NI Act. But this case has some peculiar facts. Appellant has already been in jail for more than 1 year before being released on bail and has also compensated the complainant. Further, in compliance of the orders of the court he has deposited an additional amount of Rs.10 lacs. There is no purpose now to keep the proceedings pending in appeal before the lower appellate court.Quashing of a case is different from compounding. If continuance of criminal appeals against the appellant's conviction then it would defeat all the efforts of this Court in the last year where this Court had monitored this matter and ensured that the complainant gets her money back.

JIK Industries Limited v. Amarlal V. Jamuni & Anr. **(2012) 3 SCC 255 denied the**

suggestion of the appellant therein that 'consent' is not mandatory in compounding of offences under Section 138 of NI Act. Court in *Meters and Instruments private Ltd. And Another. v. Kanchan Mehta* (2018) 1 SCC 560 after discussing the series of judgments including the *JIK Industries Ltd.* (supra) observed that even in the absence of 'consent' court can close criminal proceedings against an accused in cases of section 138 of NI Act if accused has compensated the complainant. In our opinion, *Kanchan Mehta* (supra) nowhere contemplates that 'compounding' can be done without the 'consent' of the parties and even the above observation of *Kanchan Mehta* (supra) giving discretion to the trial court to 'close the proceedings and discharge the accused', by reading section 258, CrPC, has been held to be 'not a good law' by this Court in the subsequent 5 judges bench judgement in *Expeditious Trial of Cases Under Section 138 of NI Act, 1881*, In re, (2021) 16 SCC 1162.

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