

**HONOURABLE SRI JUSTICE K. LAKSHMAN**

**I.A. Nos.1 and 2 of 2019**  
**IN/AND**  
**CRIMINAL APPEAL No.660 OF 2015**

**COMMON JUDGMENT:**

I.A. No.1 of 2019 is filed by the petitioners – Appellants – Accused Nos.1 and 2 seeking to permit them to enter into compromise with the 2<sup>nd</sup> respondent in the appeal.

2. I.A. No.2 of 2019 is filed by the petitioners – Appellants – Accused Nos.1 and 2 filed this application seeking to permit them to compound the offence under Section 138 of the Negotiable Instruments Act, 1882, as the petitioners and the 2<sup>nd</sup> respondent compromised and settled the matter out of Court.

3. The appellants – accused Nos.1 and 2 filed CrI.A. No.660 of 2015, under Section 374 (2) of the Code of Criminal Procedure, 1973, questioning the conviction and sentences imposed upon them by judgment, dated 01.06.2015, in CrI.A. No.430 of 2012 passed by the III Additional Metropolitan Sessions Judge, Hyderabad.

4. Vide the aforesaid judgment, the appellants - accused Nos.1 and 2 were found guilty of the offence under Section 138 of NI Act and were convicted under Section 255 (2) Cr.P.C., for the said offence and accordingly, the 1<sup>st</sup> accused, being the Company, was sentenced to pay a fine of Rs.5,000/- in default, the 2<sup>nd</sup> accused, Director of the 1<sup>st</sup> accused, has to undergo simple imprisonment for a period of two

months. The 2<sup>nd</sup> accused was sentenced to undergo simple imprisonment for a period of six months and also to pay compensation of Rs.2,47,458/- within one month from the date of that judgment, in default, to undergo simple imprisonment for three months. Aggrieved by the said judgment, appellants - accused Nos.1 and 2 preferred the present appeal.

5. During pendency of the aforesaid appeal, the appellants – accused Nos.1 and 2 filed I.A. No.1 of 2019 seeking permission to enter into compromise with the 2<sup>nd</sup> respondent – complainant, while I.A. No.2 of 2019 seeking permission to compound the offence under Section 138 of the NI Act with the 2<sup>nd</sup> respondent – complainant.

6. The learned Additional Public Prosecutor representing respondent No.1 reported no objection for allowing the petitions.

7. It is submitted by both the learned counsel for the appellants as well as the 2<sup>nd</sup> respondent that during the pendency of the present appeal, both the appellants and the 2<sup>nd</sup> respondent have entered into an agreement and accordingly, the same was reduced in writing vide Memorandum of Understanding, dated 24.01.20120.

8. Perused the affidavits filed by the petitioners – appellants – accused Nos.1 and 2 and the joint memo signed by both the parties. The contents thereof would disclose that the appellants – accused Nos.1 and 2 agreed to pay Rs.20,00,000/- to the 2<sup>nd</sup> respondent in all, towards full and final settlement in respect of C.C. Nos.207, 208, 209,

210 and 211 of 2009 on the file of the XVIII Additional Chief Metropolitan Magistrate, Hyderabad. Out of the said amount of Rs.20,00,000/-, an amount of Rs.5,00,000/- was already paid in the year 2014 itself and an amount of Rs.5,00,000/- was transferred into the account of the 2<sup>nd</sup> respondent on 04.02.2019 and the balance amount of Rs.10,00,000/- was paid today to the 2<sup>nd</sup> respondent vide Demand Draft bearing No.001665, dated 09.01.2020 drawn on Karnataka Bank Ltd., Sanjaynagar, Bengaluru, for an amount of Rs.10,00,000/-. It is further disclosed that the appellants – accused Nos.1 and 2 as well as the 2<sup>nd</sup> respondent entered into compromise with the intervention of elders and well-wishers and accordingly, they prayed to allow the Criminal Appeal by setting aside the conviction and sentences recorded by the appellate Court, in terms of the compromise. The joint memo filed by the parties shall form part of the record.

9. Sri N. Sridhar – 2<sup>nd</sup> appellant, Director of the 1<sup>st</sup> appellant Company, is present in the Court. He is identified by his counsel. Sri Vinod Kumar Gambhir, Director of the 2<sup>nd</sup> respondent Company, is also present in the Court along with his counsel Sri J.V. Radhakrishna Murthy. The parties also produced self-attested Photostat copies of their “Aadhaar Cards” in proof of their identity and the same are verified with the originals.

10. Both Sri N. Sridhar – 2<sup>nd</sup> appellant, representing the 1<sup>st</sup> appellant Company and Sri Vinod Kumar Gambhir, Director of the

2<sup>nd</sup> respondent Company confirms the contents of Memorandum of Understanding, dated 24.01.2020, and they informed this Court that they have no complaints against each other.

11. In view of the said submissions and in view of handing over of the Demand Draft to the 2<sup>nd</sup> respondent in the present appeal, permission is granted to 2<sup>nd</sup> respondent to compound the offence under Section 138 of the NI Act and to compromise the matter.

12. Accordingly, I.A. No.1 of 2019 is allowed granting permission to compromise the matter between the appellants and the 2<sup>nd</sup> respondent and I.A No.1 of 2020 is allowed granting permission to compound the offence.

13. The Appeal is allowed setting aside the conviction and sentence of imprisonment imposed upon appellants - Accused Nos.1 and 2 vide judgment, dated 01.06.2012, in Crl.A. No.430 of 2012 passed by the III Additional Metropolitan Sessions Judge, Hyderabad, for the offence under Section 138 of the Negotiable Instruments Act. Accordingly, the appellants - accused Nos.1 and 2 are acquitted of the offence for which they were charged. The fine amount, if any, paid by the appellants shall be refunded to them. The bail bonds of the appellants shall stand cancelled. As a sequel, miscellaneous petitions, pending if any, shall stand closed.

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**K. LAKSHMAN, J**

**January 24, 2020**

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