

Crl. A. 25061/2022

Matter is advanced on today's Board at the request of the Learned Counsel for Appellant.

Sri. TSP Adv filed Power for Respondent.

Appellant, Respondent and their respective counsel present.

Conciliation Conducted Successfully.

The Appellant, Respondent and their respective counsels have filed Joint Memo with the respective signatures of the Appellant/Accused and Respondent/Complainant, contending that the dispute inbetween them is settled and the Appellant/Accused has undertaken to pay a sum of Rs.2,10,000/-, towards full and final settlement. Out of which he has paid an amount of Rs. 1,75,000/- and Rs. 25,000/- on 11.04.2022 by Online Transfer under IMPS; and today he is paying an amount of Rs. 10,000/- by way of DD bearing No. 903268 dated 13.04.2022. Further the Respondent /Complainant has consented for the same.

Identity of the Appellant and the Respondent is verified by virtue of their respective identity cards, self-attested copy of the same, with the identification done by their respective counsels, is annexed with this Joint Memo. Perused, enquired and satisfied with their identity.

The learned counsels for the Appellant and Respondent, respectively prayed to accept the Joint Memo and to pass necessary orders on compounding the Offence.

Heard the learned counsels for the Appellant and Respondent, respectively.

The Respondent/Complainant had lodged a complaint against the Appellant/Accused alleging that he has committed an offence punishable U/Sec. 138 of N.I. Act, by issuing a Cheque amounting to Rs.3,75,000/-, on its dishonour.

It appears that the dispute inbetween the Appellant/Accused and the Respondent/Complainant is settled for the above terms, inorder to have healthy atmosphere and relationship inbetween them, with an object to create a win-win situation inbetween the parties, the Joint Memo filed by the Appellant and the Respondent, deserves to be accepted by compounding the offence U/Sec. 147 of the N.I.Act, as Sec. 147 of N.I. Act is in the nature of enabling provision which provides for the compounding of the offence prescribed under the N.I. Act, thereby serving as an exception to the general Rule incorporated in sub-Section (9) of Sec. 320 of Cr.P.C., which states that no offence shall be compounded except as provided by this Section. I find support to my above view by the guiding principles laid down by **the Hon'ble Apex Court in the case of Damodar S. Prabhu V/s Sayed Babalal H. (Criminal Appeal No.963/2010) with Crl.A.Nos.964 to 966 of 2010, decided on 03.05.2010.** Hence, in the interest of justice and equity, I proceed to pass the following

ORDER

Acting U/S 147 of Cr.P.C., the offence punishable U/Sec. 138 of N.I. Act is compounded.

Joint Memo filed by the Appellant/Accused and Respondent/Complainant dt. 13.04.2022 is hereby Accepted.

In the consequences, when the Appellant/Accused has paid an amount of Rs.10,000/- to the Complainant, by way of DD, so the order of conviction passed by the Learned 33rd ACMM, Bengaluru, in C.C.No.50751/2018, shall stand Set-aside, subject to Payment of fine amount of Rs. 5,000/- by the Appellant/ Accused before the Trial court towards fine, to be paid to the State Exchequer.

Accordingly, the Appeal is disposed-off.

Accused is Acquitted for the Offence punishable U/S 138 of NI Act, subject to payment of fine of Rs. 5,000/-.

Office is directed to send the copy of this order to the Trial Court on obtaining proper endorsement.

[Abdul-Rahiman. A.Nandgadi]
LXXII A.C.C.& S. Judge,
Mayohall Unit, (CCH-73) Bengaluru