

ITEM NO.112

COURT NO.7

SECTION II

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO(s). 174 OF 2006

TATAVARTHI SANANDA KALESWARARAYA GUPTA

Appellant (s)

VERSUS

KOTHA RAJU & ANR.

Respondent(s)

(With office report)

WITH SLP(Crl) NO. 707 of 2006

(With office report)

Date: 27/10/2010

This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE HARJIT SINGH BEDI

HON'BLE MR. JUSTICE CHANDRAMAULI KR. PRASAD

For Appellant(s)

Mr. D. Bharat Kumar, Adv.

Ms. M. Indrani, Adv.

Mr. Balasubrahmanyam Kamarasu, Adv.

Mr. Abhijit Sengupta, Adv.

For Respondent(s)

For RR No. 1

Mr. Y. Raja Gopala Rao, Adv.

Ms. Vismai Rao, Adv.

Mr. Krishna Nand Jaiswal, Adv.

For State

Mr. D. Mahesh Babu, Adv.

Mr. Ramesh Allanki, Adv.

UPON hearing counsel the Court made the following

O R D E R

Leave granted in SLP(Crl.) No. 707 of 2006.

The appeals are dismissed in terms of the
signed order.

(KALYANI GUPTA)

SR. P.A.

(VINOD KULVI)

COURT MASTER

Crl.A. No. 174 of 2006

[SIGNED ORDER IS PLACED ON THE FILE.]

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 174 OF 2006

TALAVARTHI SANANDA

.....

APPELLANT

VERSUS

KOTHA RAJU & ANR.

.....

RESPONDENTS

WITH
CRIMINAL APPEAL NO. 2189 OF 2010
ARISING OUT OF SLP (CRL.) NO. 707 OF 2006

O R D E R

1. Leave granted in SLP (Crl.) No. 707 of 2006.

2. We have gone through the record. We see from the

findings recorded in O.S. No. 13 of 2001, the order of the
Senior Civil Judge, Bhimawaram on 12th April, 2004, that the

entire sum of Rs. 1,03,000/- representing the full amount

of the cheque had been deposited and paid to the

complainant though in instalments and that in the Civil Suit

aforesaid interest at the rate of 24% per annum on the

aforesaid amount of Rs. 1,03,000/- from the date of

Crl.A. No. 174 of 2006

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promissory note to the date of the filing of the
suit

tabulated at Rs. 79,170/- had also been decreed and this

decree has also been satisfied in the meanwhile.

It is

apparent that the High Court's observations that a sum

of

Rs. 65,000/- had not been paid which had led to
the

conviction and sentence of the appellant under Section 138

of the Negotiable Instruments Act and to a fine of Rs.

5000/- and also an amount of the cheque representing twice

the amount of the cheque being Rs. 1, 60,000/-
as

compensation was erroneous.

We see from the perusal of the

civil suit that the amount of Rs. 65,500/- had in fact been

deposited in the Court on 17th August, 2001.

In the lig

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of the fact that High Court's order is based on a

misconception as to the liability of the appellant, we feel

that the amount of Rs. 1,60,000/- as compensation on the

appellant is wholly unjustified.

We, accordingly, set aside

the High Court's order to this extent only.

We,

accordingly, restore the order of the trial court with the

above modification.

The appeals are dismissed in the above

terms.

.....J
[HARJIT SINGH BEDI]

Crl.A. No. 174 of 2006

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.....J
[CHANDRAMAULI KR. PRASAD]

NEW DELHI
OCTOBER 27, 2010.