

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.873 OF 2011
(Arising out of SLP(Crl.) No.8662/2008)

B.V. VIDHYASHANKAR Appellant(s)
:VERSUS:
B. MAHAVEER KUMAR Respondent(s)

O R D E R

1. Leave granted.

2. We have heard the learned counsel for the parties.

3. The appellant issued a cheque bearing No.112378 dated 5.12.2002 of Citibank for Rs.1,30,000/- in favour of the respondent, which was dishonoured when presented to the drawee bank. The respondent filed a complaint under Section 138 of the Negotiable Instruments Act, 1881.

4. The Trial Court convicted the appellant for having committed the offence punishable under Section 138 of the Negotiable Instruments Act and sentenced him to pay a fine of Rs.2 lakhs, out of

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which Rs.1,90,000/- to be paid to the complainant and the remaining Rs.10,000/- to be appropriated by the State. The order of conviction and sentence

passed by the Trial Court was affirmed by the revisional court and the High Court.

5. The appellant has deposited Rs.1 lakh before the Trial Court and in pursuance of the direction of this Court, Rs.1 lakh has been deposited in the

Registry of this Court.

6. Learned counsel for the respondent-complainant submits that the respondent has no objection in setting aside the order of conviction of the appellant if out of the amount of Rs.2 lakhs deposited by the appellant Rs.1,90,000/- is given to him.

7. In the peculiar facts and circumstances of this case, we are of the considered view that ends of justice would meet if the respondent-complainant is paid Rs.1,90,000/-, with interest accrued thereon, and the conviction of the appellant is set aside. We order accordingly.

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8. The amount of Rs.1 lakh which has been deposited in the Trial Court be handed over to the respondent-complainant within four weeks from today and out of Rs.1 lakh deposited by the appellant in the Registry of this Court, Rs.90,000/-, with interest accrued thereon, be paid to the respondent-complainant and Rs.10,000/- be appropriated by the State.

9. However, we make it clear that this case has been decided on its own peculiar facts and shall not be treated as a precedent.

10. The appeal is disposed of with the aforementioned observations and directions.

.....J
(DALVEER BHANDARI)

