

APHC010365922018



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3604]

MONDAY, THE 27th DAY OF JULY 2026

PRESENT

THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

CRIMINAL REVISION CASE NO: 1258/2018

Between:

1.SRI MOTHUKURI VIVEKANANDA, R/O. PLOT NO3629, NETHAJI STREET, AYYAPPA NAGAR, PATAMATA, VIJAYAWADA.

...PETITIONER

AND

1.MRS VALLABHANENI PADMA, R/O. D.NO.64-8-14, RAGHAVA NAGAR, PATAMATA, VIJAYAWADA.

2.THE STATE OF ANDHRA PRADESH, REP. BY ITS PUBLIC PROSECUTOR, HIGH COURT AT HYDERABAD FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH.

...RESPONDENT(S):

Counsel for the Petitioner:

1.V VENKATA NAGA RAJU

Counsel for the Respondent(S):

1.PUBLIC PROSECUTOR (AP)

2.CHOKKA TEJA SREE

The Court made the following:

HON'BLE SMT. JUSTICE SUNITHA GANDHAM

CRIMINAL REVISION CASE NO: 1258/2018

ORDER:

1. This Criminal Revision Case is filed under Sections 397 and 401 of the Code of Criminal Procedure, 1973 challenging the Judgment dated 24.04.2018 in Criminal Appeal No.83 of 2016 passed by the learned XII Additional District & Sessions Judge-Cum-VI Additional Metropolitan Sessions Judge, Vijayawada, wherein conviction and sentence passed by the learned I Special Magistrate, Vijayawada *vide* order dated 29.02.2016 in C.C.No.84 of 2014 for the offence under Section 138 of the Negotiable Instrument Act (hereinafter referred to as 'the Act') are confirmed by dismissing the appeal filed by the appellant/petitioner.

2. The parties are being referred to as per their positions before the trial Court, for the sake of convenience and clarity.

3. Case of the complainant is, on 19.01.2012, accused borrowed an amount of Rs.9,60,000/-, to meet his family expenses, agreeing to repay the same with interest at 24% per annum and on repeated demands, accused issued a cheque bearing No.181551 dated 19.12.2012 for an amount of Rs.9,60,000/- towards satisfaction of the above debt and when he presented the said cheque for collection, Federal Bank, Vijayawada returned the same with endorsement 'insufficient funds' *vide* cheque return memo dated 22.12.2012, and having received notice also, accused didn't repay the said amount.

4. The offence under Section 138 of the Act is a compoundable offence. As per the version of the learned counsel for the revision petitioner, with the intervention of the elders and well wishers, the dispute was amicably settled out of Court and accused agreed to pay Rs.10,00,000/- and accordingly, he had given demand draft bearing No.932644492 dated 29.06.2026 for

Rs.10,00,000/- and to that effect, both parties filed petition in I.A.No.2 of 2026 along with joint compromise memo, photocopies of demand draft dated 29.06.2026 and aadhaar cards requesting this Court to give permission to compound the offence. Both parties are present and complainant submitted that the accused may be acquitted by allowing the present revision as she has received demand draft for Rs.10,00,000/- towards full and final settlement. Learned counsel for the revision petitioner also submitted the same.

5. In this regard, it is to be noted that in ***K.M.Ibrahim Vs. K.P.Mohammad and Another***¹, the Hon'ble Apex Court held as follows:

"If the offence under Section 138 of Negotiable Instruments Act is compromised, during the pendency of appeal, the conviction and sentence have to be set aside, in view of the compromise between both the parties and Section 147 of the Negotiable Instruments Act applies to the appellate court also".

6. Further, in ***M/s.Meters and Instruments Private Limited and Another Vs. Manchan Mehta***², the Hon'ble Apex Court held as follows:

"This court has noticed that the object of the statute was to facilitate smooth functioning of business transactions. The provision is necessary as in many transactions' cheques were issued merely as a device to defraud the creditors. Dishonour of cheque causes incalculable loss, injury and inconvenience to the Vide the Banking, Public Financial Institutions and Negotiable Instruments Laws (Amendment) Act, 1988 payee and credibility of business transactions suffers a set back. At the same time, it was also noticed that nature of offence under Section 138 primarily related to a civil wrong and the 2002 amendment specifically made it compoundable".

7. For the foregoing reasons and having given thoughtful consideration to the above propositions of Hon'ble Supreme Court, this Court came to conclusion that permission may be given to both the parties, to compound the

¹ [2010 (1) SCC 798]

² [2018 (1) SCC 560]

offence. Added to it, complainant submitted that the cheque amount is of Rs.9,60,000/- and she has received demand draft for Rs.10,00,000/- towards full and final settlement and she has no objection to allow the revision by acquitting the accused. Accused submitted that he is a driver and he had already paid huge amount of Rs.10,00,000/-, not in a position to pay penalty amount and requested to waive the penalty amount of 20% of cheque amount and he is ready to pay Rs.5,000/- towards penalty. Having given thoughtful consideration to the Judgment of Hon'ble Apex Court in ***Rajeev Khandelwal vs. State of Maharashtra and Another***³ and also financial condition of the revision petitioner, directed him to pay an amount of Rs.5,000/- towards penalty by way of demand draft drawn in favour of the Secretary, High Court Legal Services Committee and accordingly, he had taken demand draft bearing No.632692 dated 24.07.2026 and filed photocopies of demand draft and receipt dated 24.07.2026 issued by the Secretary, High Court Legal Services Committee. Therefore, in the given facts and circumstances, permitted both the parties to compound the offence.

8. **In the result**, this Criminal Revision Case is allowed, and conviction and sentence dated 24.04.2018 in Criminal Appeal No.83 of 2016 passed by the learned XII Additional District & Sessions Judge-Cum-VI Additional Metropolitan Sessions Judge, Vijayawada are be and hereby set aside and thereby, accused is acquitted of the offence under Section 138 of the Act.

As a sequel thereto, pending miscellaneous petitions, if any, shall stand closed.

SUNITHA GANDHAM, J

27.07.2026
Vns

³ 2025 Livelaw SC 1103

