

Piyush Gupta Vs. the Additional District and Sessions Judge No.8, Jaipur City, Jaipur and anr.

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Court : Rajasthan Jaipur

Decided On : Apr-23-2011

Judge : R.S. Chauhan, J.

Acts : Negotiable Instruments Act (NI ACT) - Section 138

Appeal No. : S.B. Criminal Revision Petition No.0185/2008.

Appellant : Piyush Gupta.

Respondent : The Additional District and Sessions Judge No.8, Jaipur City, Jaipur and anr.

Advocate for Def. : Mr.Paresh Chaudhary, Adv.

Advocate for Pet/Ap. : Mr.Rajeev Sogarwal, Adv.

Judgement :

1. Although this case is listed today in the category of defects, but with the consent of the learned counsel for the petitioner, this case is being decided at this state. This petition has been filed against the order dated 27.03.2008, passed by respondent No.1, the Additional District and Sessions Judge No.8, Jaipur City, Jaipur, whereby the learned Judge has directed that the amount of Rs.70,000/- deposited by the petitioner shall be released to respondent No.2, Mr. Chandra Mohan Yadav. According to the learned counsel, the petitioner was convicted for

offence under Section 138 of the N.I. Act and was sentenced to one year of imprisonment and was further directed to pay a compensation of Rs.2,81,000/- vide judgment dated 24.01.2007.

2. Aggrieved by this order, the petitioner filed an appeal before the learned Judge. The Judge while suspending the sentence directed the petitioner to deposit 25% of the pecuniary punishment i.e. Rs.70,000/-. The petitioner did so. However, subsequently the respondent No.2, Mr. Chandra Mohan Yadav, filed an application before the learned Judge praying that the said amount should be disbursed to him.

3. Therefore, vide order dated 27.03.2008, the learned Judge directed that the said amount shall be disbursed to respondent No.2 provided he gives a surety for the same. According to the learned counsel, the amount should, in fact, have been kept in a nationalized bank, instead of being disbursed.

4. Moreover, in case the petitioner were to succeed in his appeal, he would have to recover the said amount from respondent No.2. Heard the learned counsel and perused the impugned order.

5. Both the contentions raised by the learned counsel are misplaced for the simple reason that the learned Judge has asked the respondent No.2 to give surety for the amount disbursed to him. In case the petitioner were to succeed in his appeal, obviously the amount would have to be returned to him along with interest thereon. Therefore, this Court does not find any illegality or perversity in the impugned judgment.

6. This petition, being devoid of any merit is, hereby, dismissed

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