

Landmark Judgement

B V Sessaiah v. State of Telangana, (2023) | Conviction cannot be verified Overriding Parties' Agreement to Compound the Offense



B V SESHAI AH VS STATE OF TELANGA

www.lawread.in

A notable ruling by the Supreme Court concerning section 138 of the Negotiable Instrument Act, 1881 is explained in **The Case Analysis: B V Sessaiah v. State of Telangana, (2023)**. The Supreme Court recently reversed the Telangana High Court's decision, which invalidated the parties' agreement to compound the offense and upheld the conviction in a dishonored check case. **A bench consisting of Justices Krishna Murari and V. Ramasubramanian** ruled that when parties to a litigation action have agreed to compound a compoundable offense, the High Courts cannot override such compounding and impose their will on the parties.

Case Title: BV Sessaiah v. State of Telangana

Court: Supreme Court of India

Citation: Arising out of Special Leave Petition (CRL) No.7099/2018

Judges: Justices Krishna Murari and V Ramasubramanian.

Date: 1st February 2023

facts

Due to a private complaint filed by **Respondent No. 2 (State of Telangana)**, the Appellants in this case were the focus of proceedings **under Section 138** of the Negotiable Instruments Act, 1881. These proceedings led to the trial court finding the appellants guilty.

It is claimed that while pretending to be investors, the appellants stole money from Respondent No. 2 and then unlawfully made a profit. After being found guilty, the appellants asked the High Court for a review. It's important to keep in mind that during the appellants' revision, the parties signed a Memorandum of Understanding to settle their disagreement.

Clause 8 of the Memorandum of Understanding stated that if the dispute could not be resolved amicably, it was to be sent to a single arbitrator.

Clause 8 of the aforementioned Memorandum of Understanding states the following:

that any disagreement emerging under this agreement will be resolved amicably. Shri Jonnalagadda Srinivasa Rao S/o Venkaiah will be the only arbitrator if the dispute cannot be resolved amicably; his ruling will be final and binding on all parties. After inputting references and rendering a decision, the lone arbitrator will hear the parties. The Arbitration and Conciliation Act's regulations will apply to the arbitration process.

It is important to note that Respondent No. 2 neglected to file a compromise petition with the High Court as required under the provisions of the agreement. Due to Respondent No. 2's inability to submit the compromise motion, the High Court has now rejected the Revision and

maintained the Appellants' conviction.

Problems Involved

In order to avoid going through the legal process, the parties clearly entered into an agreement that aggravated the offense.

Once the parties have taken such a step, the question is whether the High Court can override such compounding and impose its will, and if it is quite clear from the legislation that they are allowed to do so.

Applied Laws

This case relates to Section 138 of the Negotiable Instruments Act of 1881, which deals with check dishonour. In this instance, conviction cannot override the parties' agreement to compound the offense. Regardless of what is said in the Code of Criminal Procedure, 1973, Section 147 of the Negotiable Instruments Act of 1881 stipulates that any offense covered by this Act must be compoundable.

Evaluation

The parties are obligated by the terms and conditions of the settlement they entered into to settle the dispute amicably or through arbitration, as indicated in clause 8 of the Memorandum of Understanding.

Because the settlement only makes the offense worse, the appellants cannot be found guilty in this case based on the rulings of the lower courts. In the matter of **M/S Meters and Instruments Private Limited & Anr. v. Kanchan Mehta**, this court found that the offence under section 138 of the NI Act is significantly related to a civil wrong and has been made a compoundable offence.

The pertinent passage from the ruling is summarized as follows: "This Court has noted that the object of the statute was to facilitate smooth functioning of business transactions." The clause is required since checks were frequently used as a means of defrauding creditors. According to the Banking, Public Financial Institutions and Negotiable Instruments **Laws (Amendment) Act, 1988**, dishonoring a check results in incalculable loss, harm, and annoyance to the payee and damages the legitimacy of commercial operations. Simultaneously, it was observed that the 2002 amendment explicitly made the offense under Section 138 compoundable, and that the offense was principally related to a civil wrong.

In order to avoid litigation, the parties clearly established an agreement and compounded an

offense. When the parties have taken such action and the law clearly authorizes them to do so, the High Court cannot override such compounding and impose its will.

It should be noted that Respondent No. 2 was obligated to submit a compromise petition to the High Court; by neglecting to do so, he withheld crucial information from the court, resulting in the unfair confirmation of the appellants' conviction.

As a result, the court accepts these appeals and overturns the conviction verdict from the trial court. However, the parties are free to settle their differences in line with the terms of the MOU.

Lawread