

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. _____ OF 2024
(ARISING OUT OF SLP (CRIMINAL) NO. 4370 OF 2023)

C.N. SHANTHA KUMAR

APPELLANT(S)

VERSUS

M.S. SRINIVAS

RESPONDENT(S)

O R D E R

1. Leave granted.

2. Heard Mr. Tripurari Ray, learned counsel appearing for the appellant. The respondent (complainant) is represented by Mr. Mahesh Thakur, learned counsel.

3. On the basis of the complaint filed by the respondent, proceedings were drawn up under Section 138 of the Negotiable Instruments Act, 1881 and the learned trial court ordered for conviction of the appellant. On appeal, the trial court's judgment was reversed and the accused was acquitted. When the matter was taken in Revision before the High Court, under the impugned judgment, the High Court had reversed the appellate Court's acquittal order and ordered conviction for the appellant.

4. The learned counsel for the appellant would firstly submit that the High Court has limited power of Revision under Section 401 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the 'Cr.P.C'). More importantly, under sub-section (3) of Section 401, the High Court is not competent to convert a finding of

acquittal into one of conviction.

5. The learned counsel for the respondent (complainant) in his turn submits that this was a case which merited conviction of the appellant and therefore the High Court's order cannot be faulted.

6. Whether a particular case merits conviction or not is not the issue before us in the present proceedings. The sub-section (3) of Section 401 of the Cr.P.C. clearly says that the High Court does not have the authority to convert a finding of acquittal into one of conviction while exercising its Revisional power. But that precisely was done by the High Court under the impugned judgment dated 19.01.2023.

7. The impugned decision of the High Court is therefore found to be unsustainable. If the High Court was convinced about a wrongful acquittal, the High Court in Revision could not have ordered for conviction. It ought to have remitted the matter back to the appellate court to re-appreciate the matter. This course was not adopted.

8. Having considered the above, we deem it appropriate to remit the matter back to the appellate court i.e. the Additional District and Sessions Judge at Bengaluru Rural District, Anekal. Both parties should appear before the said Court within four weeks from today. An appropriate decision should then be rendered by the appellate court after considering the contention of the rival parties. It is ordered accordingly.

9. With the above, the appeal stands disposed of.

10. Pending application(s), if any, shall stand disposed of.

.....J.
(HRISHIKESH ROY)

.....J.
(S.V.N. BHATTI)

NEW DELHI;
SEPTEMBER 02, 2024.

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No(s). 4370/2023

(Arising out of impugned judgment and order dated 19-01-2023 in CRLRP No. 876/2018 passed by the High Court of Karnataka at Bengaluru)

C.N. SHANTHA KUMAR

Petitioner(s)

VERSUS

M.S. SRINIVAS

Respondent(s)

(IA No. 69449/2023 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 02-09-2024 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE HRISHIKESH ROY
HON'BLE MR. JUSTICE S.V.N. BHATTI

For Petitioner(s) Mr. Tripurari Ray, Adv.
Mr. Balwant Singh Billowria, Adv.
Mr. Anirudh Ray, Adv.
Mr. Vivekanand Singh, Adv.
Mr. Akshay Singh, Adv.
Mr. Manu Shanker Mishra, AOR

For Respondent(s) Mr. Shailesh Madiyal, Sr. Adv.
Mr. Mahesh Thakur, AOR
Mr. Vaibhav Sabharwal, Adv.
Mr. Ranvijay Singh Chandel, Adv.
Mrs. Geetanjali Bedi, Adv.
Ms. Nandini B, Adv.
Dr. Anthony Raju, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

The appeal stands disposed of in terms of the signed order.

Pending application(s), if any, shall stand closed.

(NITIN TALREJA)
ASTT. REGISTRAR-cum-PS

(KAMLESH RAWAT)
ASSISTANT REGISTRAR

(Signed order is placed on the file)