

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 174 OF 2006

TALAVARTHI SANANDA

.....

APPELLANT

VERSUS

KOTHA RAJU & ANR.

.....

RESPONDENTS

**WITH
CRIMINAL APPEAL NO. 2189 OF 2010
ARISING OUT OF SLP (CRL.) NO. 707 OF 2006**

O R D E R

1. Leave granted in SLP (Crl.) No. 707 of 2006.
2. We have gone through the record. We see from the findings recorded in O.S. No. 13 of 2001, the order of the Senior Civil Judge, Bhimawaram on 12th April, 2004, that the entire sum of Rs. 1,03,000/- representing the full amount of the cheque had been deposited and paid to the complainant though in instalments and that in the Civil Suit aforesaid interest at the rate of 24% per annum on the aforesaid amount of Rs. 1,03,000/- from the date of promissory note to the date of the filing of the suit tabulated at Rs. 79,170/- had also been decreed and this decree has also been satisfied in the meanwhile. It is

apparent that the High Court's observations that a sum of Rs. 65,000/- had not been paid which had led to the conviction and sentence of the appellant under Section 138 of the Negotiable Instruments Act and to a fine of Rs. 5000/- and also an amount of the cheque representing twice the amount of the cheque being Rs. 1, 60,000/- as compensation was erroneous. We see from the perusal of the civil suit that the amount of Rs. 65,500/- had in fact been deposited in the Court on 17th August, 2001. In the light of the fact that High Court's order is based on a misconception as to the liability of the appellant, we feel that the amount of Rs. 1,60,000/- as compensation on the appellant is wholly unjustified. We, accordingly, set aside the High Court's order to this extent only. We, accordingly, restore the order of the trial court with the above modification. The appeals are dismissed in the above terms.

J

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[HARJIT SINGH BEDI]

J

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[CHANDRAMAULI KR. PRASAD]

NEW DELHI

OCTOBER 27, 2010.

