

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL REVISION APPLICATION NO. 11 OF 2011

PURUSHOTTAM CHAITRAM PATIL

V/S

LOTAN SHIVDAS PATIL AND ANR.

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Mr.R.S.Pawar, Advocate for Applicant.

Mr. Amarjeet Patil h/f Mr. N.B.Suryawanshi,
Advocate for R – 1.

Mr. V.P.Kadam, A.P.P. for R – 2 State.

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CORAM : V.M.DESHPANDE, J.

DATE : 5th MARCH, 2015

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PER COURT :

1. Heard Mr.R.S.Pawar, the learned counsel for the applicant, Mr. Amarjeet Patil holding for Mr. N.B.Suryawanshi, the learned counsel for respondent No. 1 and Mr. V.P.Kadam, the learned A.P.P. for respondent No. 2 – State.

2. The present Revision Application is directed against the Judgment and Order dated 12/12/2008 passed by the learned Judicial Magistrate First Class, Amalner in S.C.C. No. 43/2008, whereby the learned Magistrate convicted the applicant for the offence u/s 138 of the Negotiable

Instruments Act, 1881 [hereinafter referred as the 'Act'] and is directed to suffer Rigorous Imprisonment for three months and to pay fine of Rs. 2,25,000/- [Rupees Two Lacs Twenty Five Thousand] to the complainant towards compensation as per Section 357 (3) of the Act, in default to suffer Rigorous Imprisonment for one month. The Appeal carried by the applicant bearing Criminal Appeal No. 5/2009 is also dismissed by the learned Additional Sessions Judge, Amalner by his Judgment and Order dated 14/01/2011.

3. During the pendency of the present Revision Application, the applicant/accused and the respondent No. 1/original complainant reached to the amicable settlement. The affidavit of the respondent No. 1/original complainant Lotan Shivdas Patil to that effect is placed on record today in the Court. It is marked as 'X' for identification. The affidavit shows that respondent No. 1/original complainant has accepted Rs. 2,60,000/- [Rupees Two Lacs Sixty Thousand] from the applicant towards full and final settlement including interest. He has stated that he has received the entire payment.

4. The offence u/s 138 of the Act being compoundable and since the parties have reached to the settlement and that settled their dispute amicably out of Court and statement is made by respondent No. 1/original complainant in the affidavit that he is not interested in sending the present applicant in jail.

5. In view of the said compromise, I propose to pass the following order.

- (1) The present Criminal Revision Application is allowed.
- (2) S.C.C. No. 43/2008 interse between the applicant and the respondent No. 1 is compounded and is compromised.
- (3) In view of the receipt of the entire payment from the applicant by respondent No. 1/original complainant, the Judgment and Order of conviction dated 12/12/2008 passed by the learned Judicial Magistrate First Class, Amalner in S.C.C. No. 43/2008 together with the Judgment and Order dated 14/01/2011 passed by the learned Additional Sessions Judge, Amalner in Criminal Appeal No. 5/2009 confirming the order of conviction are hereby quashed and set aside.
- (4) The applicant Purushottam Chaitram Patil is acquitted from the offence u/s 138 of te Act in S.C.C. No. 43/2008 in view of compounding of the matter between the applicant and respondent No. 1/original complainant.

[V.M.DESHPANDE, J.]