

IN THE HIGH COURT OF BOMBAY AT GOA**CRIMINAL APPLICATION (MAIN) NO. 17 OF 2015**

MRS. JOANA D'SOUZA, PRESENTLY IN
CUSTODY AND THR. MR. CLIFFTON
DARRYL DIAS.

.... Petitioner

Versus

THE BICHOLIM URBAN CO-OP. BANK
LTD. THR. ITS BRANCH MANAGER SHRI
ULHAS P. P. CHODNEKAR AND ANR.

.... Respondents.

Mr. Ryan Menezes, Advocate for the Petitioner.
Mr. R. G. Ramani, Advocate for the Respondent No.1.

Coram :- U. V. Bakre, J.

Date : - 23rd February, 2015.

P.C.

Heard Mr. Menezes, learned counsel for the petitioner and Mr.
Ramani, learned counsel for the respondent no. 1 – Bank.

2. By this petition filed under Section 482 of Criminal Procedure Code, the petitioner has challenged the judgment and order dated 22/09/2014 passed by the learned Additional Sessions Judge – 3, South Goa, Margao, in Criminal Appeal No. 19 of 2014 by which the said appeal came to be dismissed. In the result, the judgment and order dated 21/12/2013 and 23/12/2013 passed by the learned J.M.F.C., (D-Court), Margao, in Criminal Case No. 162/OA/NI/2011 has been maintained.

So, the applicant has been sentenced to undergo simple imprisonment for six months and has been directed to pay compensation of ₹ 1,90,000/- to the complainant (respondent no.1) and in default to undergo simple imprisonment for six months.

3. In the present petition, the parties have amicably settled the matter and have today filed consent terms which have been duly signed by the petitioner as well as the authorized representative of the respondent no. 1 – Bank as well as their learned counsels. A perusal of the said consent terms which have been voluntarily signed, reveals that the dispute gets wholly resolved and nothing remains to be determined in the present petition. The consent terms are taken on record and marked as 'X', which read as under :

(1) The petitioner having paid various amounts to the Respondent No.1, during pendency of her appeal before the Hon. District Court, and as such an amount of Rs.21,000/- (Rupees Twenty One Thousand only) remains to be paid to the Respondent No.1 in respect of the controversy and/or the Cheque No. 057100 dated 17-10-2011 to which the present proceedings, and/or the criminal case and the criminal complaint before the Hon. Court below, from which these proceedings arise, pertain.

(2) The petitioner agrees that Respondent No.1

shall be entitled to withdraw the amount of Rs.30,000/- (Rupees Thirty Thousand only) deposited by her before this Hon. Court pursuant to the Orders dated 20-01-2015 of this Hon. Court in Criminal Miscellaneous Application (Main) No. 17 of 2015 and Criminal Miscellaneous Application No. 18 of 2015, being the aforesaid amount plus costs, towards the full discharge and settlement of the controversy and / or the Cheque No. 057100 dated 17-10-2011 to which the present proceedings, and / or the criminal complaint and the criminal appeal before the Hon. Court below, from which these proceedings arise, pertain, and installment of the loan account to which the said cheque pertains.

(3) In view of the aforesaid payment of Rs.30,000/- (Rupees Thirty Thousand only), to Respondent No.1, Respondent No.1 agrees and hereby consents to the conviction of the Petitioner for the offence under Section 138 of the Negotiable Instruments Act, to which the present proceedings, and / or the criminal case and the criminal complaint before the Hon. Court below, from which these proceedings arise, pertain, being compounded. In consequence thereof, Respondent No.1 agrees and hereby consents to the Judgments & Orders dated 21-12-2013 & 23-12-2013 of the Hon. J. M. F. C. at Margao convicting and sentencing the Petitioner in Criminal Case No. 162/OA/Ni/2011/D and the Order dated 22-09-2014 the Hon. Additional Sessions Judge, South Goa at

Margao dismissing Criminal Appeal No. 19 of 2014 of the Petitioner, being quashed and set aside, and to the Petitioner being acquitted of the offences under Section 138 of the Negotiable Instruments Act, in the present case.

The Petitioner and Respondent No.1 pray that this Hon. Court be pleased to accept the consent terms, set out hereinabove, in terms of which they have agreed to amicably settle the matter, and to dispose of the aforesaid criminal miscellaneous application (main) by way of an Order in terms thereof.

4. In view of the above the impugned judgment and orders of the lower Courts stand quashed and set aside and the present petitioner stands acquitted of the offence under Section 138 of Negotiable Instruments Act as a result of composition in terms of the above consent terms.

5. Registry to pay the amount of ₹ 30,000/- deposited by the petitioner in this Court, to the respondent no. 1 – Bank.

6. Proceeding stands closed.

U. V. BAKRE, J.