

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL REVISION APPLICATION NO. 56 OF 2014

SHRI. SANTOSH FAL DESSAI,
PRESENTLY UNDERGOING SENTENCE IN
SUB JAIL, VASCO DA GAMA.

... Petitioner

Versus

SHRI. KISHOR DESSAI & ANR.,

... Respondents

Shri Siddesh Shet, Advocate for the Petitioner.

Shri C.A. Ferreira, Advocate for the Respondent No. 1.

CORAM:- C. V. BHADANG, J.

DATE:- 6th APRIL, 2015

P.C:

Heard the learned Counsel for the parties.

2. The parties have produced consent terms on record in the form of an application praying for permission to compound the offence. It is marked 'X' for identification.

3. The parties are present before the Court. They are identified by their respective Counsel. They admit the correctness of the contents of the application/consent terms.

4. The petitioner was convicted for the offence punishable under Section 138 of the Negotiable Instruments Act and has been sentenced to undergo simple imprisonment for five months and to pay compensation of Rs.63,000/- and in default to undergo simple imprisonment for four months. That has been confirmed in appeal.

5. It is submitted that the amount of compensation is already paid to the complainant. The learned Counsel for the petitioner has also shown willingness to deposit 15% of Rs.52,500/-, which is the amount of the cheque, with Goa State Legal Services Authority, i.e. compliance of the guidelines issued in the case of "**Damodar S. Prabhu Vs. Sayed Babalal H.**", reported in **(2010) 5 SCC 663**.

6. In the circumstances, the following order is passed:

(a) The criminal revision application is allowed.

(b) The parties are permitted to compound the offence.

(c) The impugned order of conviction and sentence dated 30.03.2013 passed by the learned Judicial Magistrate First Class, Panaji in Criminal Case No. 219/OA/NI/2010/E and judgment and order dated 18.11.2014 passed by the learned Additional Sessions Judge, South Goa, Margao in Criminal Appeal No. 55/2013, are hereby set aside.

(d) The petitioner is acquitted of the offence punishable under Section 138 of the Negotiable Instruments Act, subject to the petitioner depositing 15% of the cheque amount with Goa State Legal Services Authority, today.

(e) The bail bonds of the petitioner stand cancelled.

7. The criminal revision application is disposed of in the aforesaid terms, with no order as to costs.

C. V. BHADANG, J.

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