

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO.99 OF 2015

Smt. M.J. Shreemathy ...Applicant

Versus

The State of Maharashtra & Anr. ...Respondents

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None for the Applicant.

Mr. R.G. Mahambre, Respondent No.2 in-person
present.

Smt. A.A. Mane, APP for Respondent No.1 -State.

CORAM:-M.L. TAHALIYANI, J.

DATED : -30th JUNE, 2015.

P.C.

Admit. Heard finally.

2. None for the Applicant. Mr. R.G. Mahambre, Respondent
No.2-in-person is present.

3. This revision application impugns the judgment and
order passed by learned Additional Sessions Judge, Vasai in Criminal
Appeal No.29 of 2007. The appeal was filed against the judgment
and order passed by Judicial Magistrate, First Class, Vasai, in
summary criminal case No.1328 of 2000. The Applicant was
convicted for the offence punishable under section 138 of the

Negotiable Instruments Act and she has been sentenced to suffer simple imprisonment for one day and to pay a fine of Rs.21,80,000/-. It was further directed that Rs.5,000/- should be paid to the State under section 357 (1) (a) of Criminal Procedure Code and Rs.21,75,000/- should be paid to Respondent No.2 (original complainant).

4. The case of Respondent No.2 before the Trial Court was that the Applicant had entered into an agreement of 'Assignment of Transfer of Lease' with one Mr. J.S. Bhat on 19-10-1998. Said Mr. J.S. Bhat had paid Rs.14,50,000/- to the Applicant. It is further stated that the said MoU was terminated on 11-11-1999 by entering into MoU with Respondent No.2. It is how under the said MoU Respondent No.2 was entitled to get Rs.14,50,000/- The Applicant in discharge of the said liability had issued a cheque in favour of Respondent No.2 on 27-1-2000 in the sum of Rs.14,50,000/- drawn on State Bank of Mysore Malleshwaran Branch, Bengaluru. The cheque was dishonoured for want of sufficient funds. Complaint came to be lodged after expiry of statutory period.

5. Respondent No.2 gave evidence to substantiate his case.

The Applicant however, took the defence that Respondent No.2 had obtained signature of the Applicant on the MoU by posing himself to be attorney holder of Mr. J.S. Bhat. She had therefore, instructed her bank that the cheque should not be honoured. As such it was denied that there was any liability for which cheque was issued. It was specifically stated by the Applicant that the amount of Rs.14,50,000/- was paid to Mr. J.S. Bhat and that there was no reason that the Applicant should again pay the said amount to Respondent No.2. Learned Magistrate after evaluation of evidence has reproduced a paragraph of MoU in his judgment which shows that there was a MoU between the Applicant and Respondent No.2 in respect of amount which the Applicant was supposed to pay to Mr. J.S. Bhat. Said para can be reproduced in the present judgment also:-

“The total amount agreed and accepted and fixed to receive by the party of the second part (the complainant) from the party of the first part (the accused) is Rs.14,50,000/- in full and final settlement of the amounts paid by Shri J.S. Bhat which has been assigned and authorised to the party of the second part to receive and acknowledge and pass necessary documents or vouchers to the party of the first part or to her assignee or nominee.”

6. This view is confirmed by the learned Appellate Court. I have gone through the evidence as a whole and I do not find any scope for disturbing the same. I do not find any substance in the revision application. There are concurrent findings of two courts below which do not appear to be perverse. The defence of the Applicant that Respondent No.2 had obtained her signature on MoU by posing himself to be Attorney Holder of Mr. J.S. Bhat is not probabalized. Firstly, because the cheque was issued in the name of the Applicant and secondly, because the MoU in this respect was very clear. The relevant part of the MoU has already been reproduced hereinabove. Said portion of MoU clearly indicates that the cheque of Rs.14,50,000/- was issued to the Applicant by way of full and final settlement of amount paid by Mr. J.S. Bhat to Respondent No.2. It is therefore, not possible to interfere with the judgment of the Sessions Court. The application needs to be dismissed.

7. The criminal revision application is therefore, dismissed.

8. At this stage I am informed that part of the compensation amount has been paid by the Applicant. Learned Magistrate is directed to take immediate steps for recovery of rest of the amount.

The amount already deposited by the Applicant by way of part of the compensation amount shall be paid to Respondent No.2.

(JUDGE)