

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**REVISION APPLICATION NO.401 OF 2013**

Amar Damodar Sant .Applicant

v/s.

Vivek Anant Parve & anr. .Respondents

Smt.Monali Patil i/b. Mr.A.B.Tajane, Advocate,  
for the Applicant  
Mr.V.B.Tapkir, Advocate, for the Respondent No.1  
Mr.J.H.Ramugade, APP, for the Respondent No.2 –  
State

**CORAM : SMT.ANUJA PRABHUDESSAI, J.**

**DATE : 15.10.2015**

**P.C.**

. The respondent No.1 herein was the complainant in S.C.C.No.2980 of 2003 on the file of the JMFC, Pune for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (Hereinafter referred to as 'N.I.Act').

2. The respondent No.1 had alleged that the applicant herein had issued a cheque bearing

No.583767 dtd. 21.08.2002 for Rs.5,22,500/- for discharge of his liability. The said cheque was deposited and was dishonoured for insufficient funds. The statutory notice was given and the applicant having failed to pay the cheque amount, the respondent No.1 filed a complaint under Section 138 of the N.I.Act.

3. The applicant, upon being served with summons put in his appearance, pleaded not guilty and claimed to be tried. Both parties adduced their evidence and upon considering the evidence on record, the learned Magistrate held the applicant guilty for the offence punishable under Section 138 of N.I.Act and sentenced him to undergo S.I. for one year and to pay compensation of Rs.5,22,500/-, in default to undergo further S.I. for four months. The applicant challenged the said conviction and sentence, on Cri.Appeal No.73 of 2008. By

Judgment and Order dated 06.07.2013 the learned Sessions Judge dismissed the Appeal. Being aggrieved by the said order, the applicant has filed the present revisiona application.

4. During the pendency of the proceedings, the applicant and the respondent No.1 have arrived at an amicable settlement. They have filed the Consent Terms which read as under :-

"a) The Applicant along with her wife Sanjivani Amar Sant has remitted and paid Rs.4,50,000/- by Pay Order 103089 drawn on The Vishweshwar Sahakari Bank payable at Pune dated 24/09/2015 towards full and final settlement of all dues/payments under cheques and pro-notes mentioned above.

b) The Applicant has deposited Rs.1,30,625/- before the Learned Lower Court during the pendency of Criminal Appeal No.73 of 2008 and thereafter Rs.1,30,000/- before the Learned Lower Court as per order dated 29.10.2013 passed by this Hon'ble Court. This amount of Rs.1,30,625/- and Rs.1,30,000/- deposited before the Learned Lower Court will be received by the Respondent along

with interest if any. Find enclosed herewith a copies of receipt in respect of deposit of amount by the Applicant.

c) There is no other transaction and or payments to be made or received by and between the parties and any cheques with the Respondent are hereby treated as cancelled for all purposes and intends.

d) The Applicant and Respondent agree that they will bear 50% - 50% amount of compensation, which may be granted by this Hon'ble Court, while disposing the above said Criminal Revision Application, on the basis of this consent term.

e) There will be no costs."

5. The Consent Terms are signed by the applicant and the Respondent and their respective counsels. The applicant and the respondent No.1 are present in Court and confirm the contents of the Consent Terms. The Consent Terms are agreeable to the applicant and the respondent No.1. The same are taken on record and marked as "X" for identification. Since the

parties have settled the dispute amicably, leave is granted to compound the offence.

6. In terms of the decision of the Supreme Court in ***Damodar S. Prabhu vs. Sayed Babalal H.***, the applicant was required to pay 15% of the cheque amount to the State Legal Services Authority. In Cri.Appln.No.415 of 2015, the applicant has stated that his financial condition is weak and he is unable to arrange for 15% of compensation. He has, therefore, prayed to take lenient view. It is to be noted that considering the financial position of the applicant, the respondent No.1 – complainant has agreed to bear 50% of the costs. In view of above, a lenient view is taken. Interest of justice would be met if the applicant/accused and the respondent No.1/complainant are directed to pay Rs.36,000/- to the State Legal Services Authority.

7. Under the circumstances and in view of discussion supra, the impugned Judgments in C.C.No.2980 of 2003 dated 25.01.2008 and Cri.Appeal No.73 of 2008 dated 06.07.2013 are hereby quashed and set aside. The applicant stands acquitted. His bail bonds stand discharged. The costs are assessed at Rs.36,000/-. In view of the Consent Terms, the applicant/accused and the respondent No.1/complainant are directed to pay the said costs to the Maharashtra Legal Services Authority within one week from the receipt of the order.

**(ANUJA PRABHUDESSAI, J.)**