

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

934 CRIMINAL REVISION APPLICATION NO. 175 OF 2015

SANJAY S/O SHASHIKANT KUTE
VERSUS
JITENDRA S/O KUMARCHAND PAREKH AND ANOTHER

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Advocate for Applicant : Mr. Narayan B. Narwade
Advocate for Respondent No. 1 : Mr. Dnyaneshwar A. Bide
APP for respondent No. 2 : Mr. G. O. Wattamwar
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CORAM : V. K. JADHAV, J.

DATED : 20th JANUARY, 2016

PER COURT :-

1. The applicant/original accused is convicted by the Judicial Magistrate First Class, Court No. 7, Ahmednagar, by judgment and order dated 31.03.2011 in S.T.C. No. 1153 of 2006 for the offence punishable under Section 138 of Negotiable Instruments Act, 1881 and sentenced to suffer S.I. for 09 months and further to pay compensation of Rs.4,09,000/- to the complainant, i/d to suffer S.I. for 03 months. The Additional Sessions Judge, Ahmednagar, by judgment and order dated 20.08.2015 passed in Criminal Appeal No. 67 of 2011, confirmed the said judgment and order of conviction and accordingly, dismissed the appeal.

2. In the present Criminal Revision Application, the applicant/original accused and respondent No. 1/original complainant have filed joint affidavit and accordingly, respondent No. 1/original complainant has compounded the offence punishable under Section 138 of Negotiable Instruments Act,

1881. The same is permissible under Section 147 of the said Act.

3. The applicant/original accused and respondent No. 1/original complainant are present before the Court. They are identified by their respective counsel. They have admitted their signature on the affidavit and further, respondent No. 1/original complainant has also admitted the contents of the affidavit. Pursuant to the orders passed by this Court, the applicant/original accused has deposited entire amount of Rs.4,09,000/- before this Court. Thus, the contents of the joint affidavit are verified.

4. In light of the above, conviction of the applicant/accused under Section 138 of Negotiable Instruments Act, 1881, sentencing him to suffer S.I. for 09 months and to pay compensation to the complainant, by judgment and order dated 31.03.2011 passed by the Judicial Magistrate First Class, Court No. 7, Ahmednagar, in S.T.C. No. 1153 of 2006, which is confirmed by the Additional Sessions Judge, Ahmednagar in Criminal Appeal No. 67 of 2011, is hereby quashed and set aside.

5. The applicant/original accused namely Sanjay S/o Shashikant Kute is hereby acquitted of the offence punishable under Section 138 of Negotiable Instruments Act, 1881 vide S.T.C. No. 1153 of 2006.

6. In terms of paragraph No. 4 of the joint affidavit, respondent No.1/original complainant is permitted to withdraw the amount of Rs.4,09,000/- (Rupees Four Lac Nine Thousand only) deposited by the

applicant/original accused before this Court.

7. Criminal Revision Application No. 175 of 2015 is accordingly disposed of.

(V. K. JADHAV, J.)

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