

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 3503 OF 2016
WITH
CRIMINAL APPLICATION NO. 416 OF 2016**

Ramesh Dhirajlal Solanki

...Petitioner

Versus

1. Sree Gokulam Chit & Finance

Co. Pvt. Ltd.;

2. State of Maharashtra

...Respondents

Mr. P. N. G. Shukla for the Petitioner

Mr. Arjun S. Pawar with Mr. Shrikant D. Patil I/b Vivek Patil & Associates
for the Respondent No. 1

Mr. V. V. Gangurde, A.P.P for the Respondent No.2-State

CORAM : REVATI MOHITE DERE, J.
TUESDAY, 25th OCTOBER, 2016

P.C. :

1. Learned Counsel for the petitioner and the respondent No.1 state that the parties have mutually settled their dispute and have entered into Consent Terms. They have tendered the Consent Terms, duly signed by the parties and their respective Advocates. The same are taken on record and marked 'X' for identification. The petitioner and the respondent No. 1 are present in Court and have identified their signatures as appearing on the

Consent Terms. The parties have been identified by their respective Counsel.

2. The petitioner, vide judgment and order dated 8th March, 2013, was convicted by the learned Metropolitan Magistrate, 57th Court at Mazgaon, Mumbai in CC No. 975/SS/2012 for the offence punishable under Section 138 of the Negotiable Instruments Act and was sentenced to suffer SI for two months and was directed to pay compensation of Rs. 3 lakhs alongwith interest at the rate of 9% per annum from the date of the order.

3. Being aggrieved by the said order of conviction and sentence, the petitioner preferred Revision Application No. 97 of 2013 in the Sessions Court, Greater Bombay. The learned Sessions Judge was pleased to dismiss the said Revision Application. Being aggrieved by the said order dismissing the Revision Application and the judgment and order of conviction and sentence awarded by the trial Court, the petitioner has filed the aforesaid Writ Petition.

4. During the pendency of this Writ Petition, the petitioner and the respondent No. 1 have settled their dispute amicably. The petitioner has agreed to pay an amount of Rs. 2,70,000/- to the respondent No. 1 by way of full and final settlement towards compensation and the respondent No. 1 has agreed to accept the said amount. The petitioner has deposited a sum of Rs. 60,000/- before the Sessions Court in the Revision Application and Rs. 2,40,000/- in this Court.

5. The petitioner has given his no objection to the respondent No. 1 for withdrawing the said amount of Rs. 2,40,000/- deposited in this Court and Rs. 60,000/-, which is deposited in the Appellate Court. Out of the said amount of Rs. 3 lakhs, the respondent No. 1 shall retain a sum of Rs. 2,70,000/- and shall return an amount of Rs. 30,000/- to the petitioner.

6. Respondent No. 1 has also given his no objection, to the quashing of the impugned judgments and orders passed by the trial Court and confirmed by the Appellate Court and has no objection if the petitioner is acquitted of the offences punishable under Section 138 of the Negotiable Instruments Act.

7. In view of the Consent Terms, the impugned judgment and order dated 8th March, 2013 passed by the learned Metropolitan Magistrate, 57th Court at Mazgaon, Mumbai in CC No. 975/SS/2012 as well as the judgment and order dated 7th September, 2016 passed by the learned Additional Sessions Judge, Mumbai in Revision Application No. 97 of 2013, are quashed and set-aside and the petitioner is acquitted of the offence, with which he is charged. Both the parties to abide by the Consent Terms.

8. Since, the petitioner has been acquitted, the amount of cash bail of Rs. 10,000/- to be refunded to the petitioner, if he is entitled to the same.

9. Petition is accordingly disposed of.

10. In view of the above order, Criminal Application No. 416 of 2016 does not survive. The same stands disposed of.

11. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.