

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

911 CRIMINAL REVISION APPLICATION NO. 202 OF 2017
WITH APPLN/2362/2017 IN REVN/202/2017
WITH
APPLN/4959/2017 IN REVN/202/2017

BISMILLAH REDIMETE THROUGH: SHAIKH SHABBIR ABDUL
RAHEMAN
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...

Advocate for Applicant : Mr. Bide Dnyaneshwar A
Mr. RB Bagul, APP for Respondents:

CORAM : P.R.BORA, J.

DATE : 15th September, 2017.

PER COURT :

1) Heard. The applicant has filed the present application, seeking leave to compound the offence under section 138 of The Negotiable Instruments Act.

2) The present applicant was prosecuted for the offence under Section 138 of the Negotiable Instruments Act by the respondents before the J.M.F.C. at Ahemadnagar. In the aforesaid criminal case bearing S.T.C. No.3765 of 2004, the applicant was convicted for the offence under

Section 138 of the Negotiable Instruments Act and was sentenced to suffer S.I. for the period of one month and to pay fine of Rs.41,000/-. The applicant challenged the said order by filing Criminal Appeal No.54 of 2008 before the Sessions Judge, at Ahmednagar, however, vide Judgment passed by the Additional Sessions Judge, Ahmednagar on 12/02/2016, the appeal has been dismissed and the order passed by the J.M.F.C. Court has been confirmed. Aggrieved by, the applicant has filed the present Criminal Revision Application.

3) In the present Criminal Revision Application, the applicant has filed a Criminal Application, seeking leave to compound the offence, in quesetion.

4) The learned Counsel for the applicant submits that the applicant has paid all the dues of the respondent society and cleared the loan account. The learned Counsel appearing for the

respondent society has not disputed the fact so stated on behalf of the applicant and has confirmed that the applicant has cleared of fall the dues of the Respondent - society and now nothing remains to be recovered from the applicant. The Respondent has thus given no objection for compounding the offence.

5) The applicant and respondent - society have filed compromise affidavit sworn by both of them on 12th September, 2017. In the compromise affidavit, it is stated that since the compromise arrived at between the parties, the offence in question may be compounded.

. It is also contended that since, the applicant has cleared entire dues of the society, it may not have any objection to permit the applicant to withdraw the amount of Rs.17,000/- lying in the J.M.F.C. Court, which was deposited by the applicant.

6) I have perused the contents of the said

compromise affidavit. It reveals that the matter is amicably settled between the applicant and the respondent-society and that the entire dues of the respondent society stand paid by the applicant. The respondent-society has, therefore, endorsed its no objection for compounding the offence.

. Section 147 of the Negotiable Instruments Act permits for compounding of the offence. In view of the fact that now nothing remains to be recovered from the applicant and that the respondent has given clear no objection for compounding the offence, the application filed by the applicant deserves to be allowed and the Criminal Revision will also have to be disposed of accordingly. Hence, the following order.

ORDER

i) Criminal Application No.4959 of 2017 is allowed.

ii) The order in STC No.3765 of 2004 and

in Criminal Appeal No.54/2008 stand quashed and set aside;

iii) The applicant - Shaikh Shabbir Abdul Raheman stands acquitted of the offence under Section 138 of the Negotiable Instruments Act.

iii) The amount of Rs.17,000/- lying in the J.M.F.C. Court is permitted to be withdrawn by the present applicant.

iv) Criminal Revision Application thus stands allowed;

v) Pending Criminal Application, if any, stands disposed of.

(P . R . B O R A , J .)

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