

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

922 CRIMINAL REVISION APPLICATION NO. 124 OF 2017
WITH APPLN/2491/2017 IN REVN/124/2017 WITH CRIMINAL
APPLICATION NO. 4710/2017

GANESH ANNARAO MOTIPAWALE.
VERSUS
THE STATE OF MAHARASHTRA AND ANR.

...
Advocate for Applicant : Shri. Reddy Ajinkya
APP for Respondent / State : Shri. S. W. Munde
Advocate for Respondent no. 2 : Shri Sachin V. Kuptekar
...

CORAM : P. R. BORA, J.
DATE : 01.09.2017

PER COURT :

1) The present application is filed seeking permission to compound the offence. The parties are present before the Court accompanied by their Counsel. The original complainant as well as the original accused both have jointly filed the present application and both of them have verified the contents of the application.

2) Shri Ganesh Annarao Motipawale was prosecuted by Shri Madhav Laxmanrao More for an offence punishable under Section 138 of the Negotiable Instruments Act, 1881 and was convicted by the Court of Judicial Magistrate First Class, Deoni and was sentenced to suffer simple imprisonment for four months and was also directed to pay compensation of Rs.1,20,000/-. The order of conviction was questioned by filing an appeal before the Sessions Court, Udgir bearing Criminal Appeal No. 19 of 2013. The learned Additional Sessions Judge

at Udgir vide judgment delivered on 28th February, 2017 dismissed the appeal and maintained the order of conviction as was passed by the learned Judicial Magistrate First Class. The original accused, thereafter, preferred the present Criminal Revision Application No. 124/2017 before this Court.

3) Today the Criminal Application No. 4710 of 2017 is filed by the parties seeking permission to compound the offence. In the application, it is contended that the original complainant and original accused have amicably settled the matter out of the court and now no dispute remains between them. The terms of compromise are also placed on record by the parties. It is contended that substantial amount of the compensation is received to the original complainant and only a sum of Rs.22,000/- is yet to be received to the original complainant, which the accused has promise to pay him on or before 15th of October, 2017. The learned Counsel appearing for the original complainant submits on instructions that the original complainant does not have any objection for compounding the offence since the matter has been amicably settled.

4) Under Section 147 of the Negotiable Instruments Act, 1881 the offence under Section 138 of the said Act has been made compoundable. In the present case, as has been mentioned herein above, the original complainant has stated that he has no objection for compounding the offence. Hence, the present criminal application deserves to be allowed and consequently, the revision application will have to be disposed of. Hence, the following order.

ORDER

1. Criminal Application No. 4710/2017 is allowed.
2. The conviction and sentence of the applicant namely, Ganesh s/o Annarao Motipawale in Summary Trial Case No. 81 of 2010 which has been confirmed in Criminal Appeal No. 19 of 2013 is quashed and set aside.
3. The applicant Ganesh s/o Annarao Motipawale is acquitted of the offence under Section 138 of the Negotiable Instruments Act, 1881.
4. Rule is made absolute.
5. Criminal Revision Application No. 124 of 2017 disposed of in the aforesaid terms.

(P. R. BORA)
JUDGE