

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.35 OF 2016

Sharadkumar Madhavji Mehta ... **Applicant**

V/s.

Bhavini Sachin Joshi & Anr. ... **Respondents**

WITH

CRIMINAL APPLICATION NO.97 OF 2016

IN

CRIMINAL REVISION APPLICATION NO.35 OF 2016

Bhavini Sachin Joshi ... **Applicant**

V/s.

Sharadkumar Madhavji Mehta & Anr. ... **Respondents**

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Mr.M.G.Shukla, Advocate for the Applicant in REVN/35/2016 and for the Respondent No.1 in APPR/97/2016.

Mr.Subodh Desai, Advocate for the Respondent No.1 in REVN/35/2016 and for the Applicant in APPR/97/2016.

Ms.V.S.Mhaispurkar, APP for the Respondent/State.

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CORAM : A.M.BADAR J.

DATED : 30th MARCH 2017.

P.C. :

1 Revision petitioner/accused so also respondent No.1 Bhavini Sachin Joshi i.e. original complainant is present before the

Court. Mr.Subodh Desai, the learned Advocate appearing for respondent No.1 Bhavini Sachin Joshi has identified the respondent No.1. Upon being asked, respondent No.1 Bhavini Sachin Joshi has stated to this Court that she has amicably settled her dispute with the revision petitioner/original accused and accordingly, she has signed on the consent terms, which are produced before this Court. She accepted her signature on the consent terms produced on record of this Court today, which are marked as Exhibit 'X'.

2 Respondent Bhavini Sachin Joshi had filed a complaint alleging the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 and the said complaint came to be allowed by the learned Metropolitan Magistrate, 44th Court, Andheri, Mumbai. The revision petitioner/accused came to be convicted for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 and thereby sentenced to suffer simple imprisonment for six months apart from directing to pay fine of Rs.9,50,000/- and in default to pay fine to undergo further simple imprisonment for one month. This order is confirmed by the appellate Court.

3 Now during pendency of the revision petition, both parties have placed on record consent terms Exhibit 'X'. Paragraph 5 of the consent terms states that revision petitioner/accused as

well as respondent No.1/original complainant have decided to settle the dispute amicably and accordingly, the revision petitioner agrees to pay sum of Rs.8,90,000/- towards dishonoured cheque apart from an amount of Rs.1,10,000/- to the respondent No.1/original complainant. In paragraph 15 of the consent terms, the respondent No.1/original complainant has stated that she gives her irrevocable and irreversible consent for acquittal of the revision petitioner on receipt of the amount as agreed between the parties.

4 Considering the fact that the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 is compoundable and as parties on their free will decided to settle the dispute between them, consent terms at Exhibit 'X' are accepted.

5 In view of the consent terms at Exhibit 'X', impugned Judgments and Orders of Courts below are quashed and set aside.

6 The Revision Petitioner/accused is acquitted of the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 subject to his compliance of consent terms at Exhibit 'X'.

7 His bail bonds stand cancelled.

8 The learned Advocate appearing for the revision petitioner/accused states that he is handing over receipts of deposit of some amount before the trial Court and appellate Court.

9 The respondent No.1/original complainant is permitted to withdraw the amount deposited by the revision petitioner/accused before the Courts below.

10 In this view of the matter, revision petition stands disposed of.

11 In view of disposal of revision petition, pending Criminal Application No.97 of 2016 stands disposed of accordingly.

(A.M.BADAR J.)