

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CRIMINAL APPELLATE JURISDICTION**  
**CRIMINAL REVISION APPLICATION NO.178 OF 2017**  
**WITH**  
**CRIMINAL REVISION APPLICATION NO.179 OF 2017**  
**WITH**  
**CRIMINAL REVISION APPLICATION NO.180 OF 2017**

**Dinesh B. Bhansali** )...Applicant

**V/s.**

**Bhupesh S. Shah and Anr.** )...Respondents

Mr. Ashish Baraskar Advocate for the Applicant-Original Accused.

Mr. Babulal Bhansali and Mrs. Pramila Dinesh Bhansali respectively father and wife of the applicant-original accused present.

Mr. Jatin P. Shah with Snehankita Munj, Advocates for Respondent No.1-Original Complainant present.

Mr. Bhupesh S. Shah-Respondent No.1/Original Complainant present.

Ms. A.A.Takalkar, APP for the State present in REVN 178/2017.

Mr. P.H.Gaikwad-Patil, APP for the State present in REVN 179/2017.

Mr. S.V.Gavand, APP for the State present in REVN 180/2017.

**CORAM : A. M. BADAR, J.**

**DATE : 11<sup>th</sup> April, 2017.**

**P.C. :**

Leave to amend the Criminal Revision Petition No.178 of 2017 in order to incorporate challenge to the judgment and order passed by the Revisional Court on 6.2.2017 in the Criminal Revision Petition No.1550 of 2014.

2 In Criminal Revision Petition No.178 of 2017 filed by the Revision Petitioner/Original Accused, challenge is to the judgment and order dated 6.2.2017 passed by the learned Additional Sessions Judge in the Criminal Appeal No.864 of 2014. By this impugned judgment and order, the Criminal Appeal filed by the revision petitioner challenging his conviction for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 came to be dismissed. The Revision Petitioner was an accused in Criminal Case bearing no.100/SS/2013 filed by the Respondent No.1/Original Complainant and on 28.8.2014 he came to be convicted of the offence punishable under Section 138 of the Negotiable Instruments Act, 1881. He was sentenced to suffer simple imprisonment for six months apart from direction to pay fine of

Rs.10,000/- and in default to undergo some sentence. In the revision petition filed by the Original Complainant/Respondent No.1 herein, compensation of Rs.9.50 Lakhs came to be awarded to the Original Complainant/Respondent No.1 with interest at the rate of 9% p.a.

3 In the Criminal Revision Petition No.179 of 2017, the Revision Petitioner/ Original Accused has impugned the judgment and order dated 6.2.2017 dismissing his Criminal Appeal No.109 of 2013 by the learned Additional Sessions Judge, Mumbai. By this appeal, he had challenged the judgment and order of his conviction in Criminal Case No.750/SS/10 recorded on **19.6.2013** by the learned Metropolitan Magistrate, Mumbai holding him guilty of the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 and sentencing him to suffer simple imprisonment for one year apart from directing him to pay compensation of Rs.37.10 Lakhs with interest at the rate of 9% p.a.

4 In the Criminal Revision Petition No.180 of 2017, the Revision Petitioner/Original Accused challenges dismissal of his

Criminal Appeal bearing No.110 of 2013 on 6.12.2017 by the learned Additional Sessions Judge, Mumbai. By this appeal, he had challenged the judgment and order of conviction dated 19.6.2013 delivered by the learned Metropolitan Magistrate, Mumbai thereby convicting him of the offence punishable under Section 138 of the Negotiable Instruments Act, 1881. He has been sentenced to suffer simple imprisonment for six months apart from directing him to pay compensation of Rs.12.60 Lakhs with interest at the rate of 9% p.a.

5            In all these three Criminal Revision Petitions, the Revision Petitioner/Original Accused is the same. Similarly, Respondent No.1/Original Complainant is the same.

6            During the pendency of these revision petitions, the Revision Petitioner Dinesh Babulal Bhansali and the Respondent No.1-Original Complainant Bhupesh S. Shah arrived at compromise. They have amicably decided to settle all these three cases as the Revision Petitioner/Original Accused-Dinesh Babulal Bhansali is undergoing jail sentence, matter has been compromised on his behalf by his father Babulal Bhansali and his

wife Pramila Dinesh Bhansali. Accordingly, in all three matters, 3 Consent Terms are placed on record by the Respondent No.1/Original Complainant-Bhupesh S. Shah. He is present before the Court and is duly identified by his learned advocate. Upon being asked Respondent No.1-Bhupesh S. Shah has informed this Court that he has settled all three matters with the Revision Petitioner/Original Accused and he has received the agreed amount by Pay Orders from Pramila and Babulal respectively wife and father of the Revision Petitioner/Original Accused. The Respondent No.1-Original Complainant-Bhupesh S. Shah has stated that out of his own free will and without there being any coercion or undue influence on him, he has settled matters with the Revision Petitioner/Original Accused-Dinesh Babulal Bhansali. Respondent No.1-Original Complainant Bhupesh S. Shah has admitted his signature on all three Consent Terms produced on record. For the purpose of identification, Consent Terms are marked as **Exhibit 'X'** in all these three Revision Petitions. The Respondent No.1/Original Complainant-Bhupesh S. Shah has candidly stated before this Court that because of compromise

arrived at between the parties, he has no objection for setting aside the impugned judgments and orders and for acquittal of the Revision Petitioner-Original Accused of the offence punishable under Section 138 of the Negotiable Instruments Act, 1881.

7           I have heard learned advocates appearing for the Revision Petitioner-Original Accused as well as the Respondent No.1-Original Complainant so also the learned APP. The learned advocate for the Respondent No.1-Original Complainant reiterated the contention of the Respondent No.1-Original Complainant that the matters have been amicably settled out of the Court and, therefore, the Revision Petitioner-Original Accused be acquitted of alleged offence and Revision Petitions be disposed of.

8           Babulal and Pramila respectively father and wife of the Revision Petitioner who is in jail, are present before this Court. They have also stated that the matter is compromised and agreed amount is already paid by them to the Respondent No.1-Original Complainant.

9           Clause 15 and prayer clauses (b) and ( c ) of the Consent Terms are relevant and are taken note of.

10           As the parties have settled the matter outside the Court and as the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 is compoundable, Consent Terms placed on record by the parties are accepted and made part of the record.

11           In view of the foregoing discussion, the following order:

(1)       Revision Petitions are allowed in terms of Consent Terms.

(2)       The Revision Petitioner/Original Accused- Dinesh Babulal Bhansali stands acquitted of the offence punishable under Section 138 of the Negotiable Instruments Act, 1881. Accordingly, judgments and orders of the learned Appellate Court dated 6.2.2017 in Criminal Appeals bearing nos.864 of 2014, 109 of 2013 and 110 of 2013 are quashed and set aside. Similarly, the impugned judgment and order of the Revisional Court dated 6.2.2017 in Criminal Revision Petition No.1550 of 2014 between

the parties is quashed and set aside in view of Consent Terms. Consequently, Criminal Cases 100/SS/13, 750/SS/10 and 751/SS/10 are dismissed in terms of the compromise pursis.

(3) The Revision Petitioner-Original Accused be released from jail forthwith if not required in any other case.

(4) Parties to act upon an authenticated copy of this order.

**(A. M. BADAR, J.)**