

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO.228 OF 2017
IN
CRIMINAL REVISION APPLICATION NO.220 OF 2017**

Mr. Pratap Mansukhlal Shah	...Applicant
Versus	
M/s. Dhaklia Steel Corporation & Anr.	...Respondents

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Mr. Paras N. Viru, Advocate for the Applicant.
Mr. P. H. Gaikwad Patil, APP for the Respondent/Orig.
Complainant.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 21st AUGUST, 2017.

P.C.:-

1. The Applicant herein had challenged the judgment and order dated 29th March 2017, whereby the learned Sessions Judge, Greater Bombay had dismissed the Criminal Appeal No.996/2014 and had thereby confirmed the order of conviction and sentence in respect of the offence under section 138 of Negotiable Instrument Act.

2. During the pendency of this Revision Application the parties have amicably settled the dispute. On 13th July 2017, the parties had filed the consent terms dated 31st May 2017. The said terms read as under:

CONSENT TERMS

“The parties to this Revision Application have agreed and resolved to settle their disputes on the following terms and conditions:

1. That in pursuant with the said settlement, the applicant has agreed to pay to the respondent no.1 and, respondent no.1 has agreed to accept an amount of Rs.5,00,000/-/- (Rs. Five lacs only) in lieu of original amount of Rs.5,27,450/- as awarded by court trial court by its order dated 30.09.2014 as and by way of full and final settlement.

2. That, said amount has required to be paid by the applicant to the respondent no.1, by way of demand draft and balance cheques, in the following manner,

(a) Demand draft of Rs.2,00,000/- numbered 819239 dated 31.05.2017 i.e. at the time of execution of this consent terms and balance cheque no.066264 dated 15.6.2017, cheque no.066265 dated 30.6.2017, cheques no. 066266 dated 15.7.2017, cheques no. 066267 dated 30.7.2017, cheques no.066268 dated 7.8.2017 and cheques no.066269 dated 15.8.2017 all amounting Rs.50,000/- each totally amounting to Rs.3,00,000/- drawn on State Bank of Patiala, Bhandup (West) Mumbai will be handed over on signing of the consent terms.

3. That, the applicant is entitled to withdraw an amount of Rs.84,076/-, which have been deposited by him in the office of Sessions Court, vide receipt No.199226, dated 23.09.2015 and the respondent no.1 herewith giving his

consent for withdrawal of the said amount of Rs.84,076/- by the applicant, as may be allowed by this Hon'ble Court. The Applicant can withdraw the amount only after the last payment is cleared.

4. That, the respondent No.1, upon receiving the entire amount of Rs.5,00,000/- shall give his no objection to compound the sentence of imprisonment imposed upon the applicant by the Learned Trial Judge through his order dated 30.09.2014.

5. It is further agreed that in case of any default the Applicant will have to pay the entire amount of Rs.5,27,450/- along with advocate fees of Rs.40,000/- in case the entire amount is not cleared on or before 15th August 2017.

6. That, the term and condition of this Consent Term have been recorded as per mutual understanding of both the above named parties and, they have put their signature as per their free wish and , will without receiving/any coercion and / or force from anybody.”

3. The order dated 13th July 2017 indicates that the said consent terms were duly signed by both the parties and their respective Advocates. The said terms were taken on record and marked as 'X' for identification.

4. The learned Counsel for the Applicant as well as the learned Counsel for the Respondent have submitted that all the terms and undertakings in the consent terms have been duly complied with. The learned Counsel for the Applicant has further submitted that the cost of Rs.3000/- has also been paid to Maharashtra Legal Services Authority. He has produced the receipt

dated 19.07.2017 towards payment of the said cost amount.

5. Since the parties have settled the dispute amicably and have complied with all the terms and conditions/undertaking in the consent terms. Hence the following order:-

ORDER

- (i) Leave is granted to the parties to compound the offence in terms of the said terms.
- (ii) Conviction and sentence imposed vide judgment and order dated 29th March 2017 and confirmed in Criminal Application No.228 of 2017, is hereby set aside.
- (iii) The Applicant is permitted to withdraw an amount of Rs.84,076/- deposited before the Sessions Court vide receipt No.199226 on 23.09.2015.
- (iv) The Revision Application stand disposed of accordingly.

(ANUJA PRABHUDESSAI, J.)