

*sbw***IN THE HIGH COURT OF JUDICATURE AT BOMBAY****CRIMINAL APPELLATE JURISDICTION****CRIMINAL REVISION APPLICATION NO.187 OF 2014**

Devendra Babulal Rao ... Applicant

vs.

Shaikh Salim Jamil Ahmed & Anr. ... Respondents

Mr. Rajesh Singh for the Applicant.

Mr. Shirodkar Ateet for Respondent no.1

Mr. P.H. Gaikwad, APP for the State.

CORAM : A. K. MENON, J.

DATE : 29th JUNE, 2017

P.C.:

1. By this revision application, the applicant seeks to challenge the impugned order dated 29th March, 2014 passed by the Sessions Court dismissing Criminal Appeal no.173 of 2011 and thereby upholding the conviction of offence under Section 138 of the Negotiable Instruments Act and the order passed by the Metropolitan Magistrate 6th Court, Mazgaon, Mumbai, on 28th April, 2008 in Criminal Case no.4092/SS/2008.

2. Vide order dated 19th June, 2014 this Court recorded that the applicant stands convicted under Section 138 of the Negotiable Instruments Act and has been directed to pay fine of Rs.6,50,000/-.

3. On 18th August, 2016 this Court recorded that the applicant had

deposited the amount of Rs.6,50,000/- and the sentence was suspended. The matter was initially referred to Mediation and the Mediator had after holding meetings found that the parties were willing to settle the matter. In the circumstances, today the parties have tendered consent terms. Consent terms are signed by the applicant and respondent no.1. It is agreed between the parties that respondent no.1 shall be entitled to withdraw a sum of Rs.5,00,000/- from the said amount of Rs.6,50,000/- deposited in this Court. It is further agreed that the applicant will be at liberty to withdraw a sum of Rs.1,50,000/-.

4. The consent terms provide for payment of a sum of Rs.5,00,000/- to respondent no.1. In view of the fact that the matter is now settled and the offence is compoundable, the above revision application can be disposed of by passing the following order:-

- (i) Revision application is allowed in terms of consent terms.
- (ii) Offence being compoundable, C.C.no.4092/SS/2008 and the conviction and sentence is set aside and the applicant is acquitted of the offence punishable under Section 138 of the Negotiable Instruments Act.
- (iii) Undertakings contained in the consent terms are accepted.
- (iv) Respondent no.1 shall be at liberty to withdraw a sum of Rs.5,00,000/- out of the amount Rs.6,50,000/- deposited in this Court.
- (v) Applicant will be at liberty to withdraw the remaining balance sum of Rs.1,50,000/- deposited in this Court.
- (vi) The applicant shall pay costs fixed at Rs.5000/- to the Maharashtra

State Legal Services Authority within a period of one week from the date this order is uploaded. If costs are not paid the impugned order will revive without further orders of this Court.

(vii) Parties to act on an authenticated copy of this order.

(viii) Stand over to 10th July, 2017 for compliance.

(A. K. MENON, J.)