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

**CRIMINAL APPLICATION NO.335 OF 2017
IN
CRIMINAL REVISION APPLICATION NO.398 OF 2017**

Suresh Jiga Dabhi ... Applicant

vs.

M/s. Khana Khazana & Anr. ... Respondents

Mr. Abhishek Yende for the Applicant.

Mr. Vinod Chate, APP, for the Respondent–State.

Mr. Suhail Khan for the Respondent no.2.

CORAM : A. K. MENON, J.

DATE : 29th JUNE, 2017

P.C.:

1. By this revision application the applicant has challenged the judgment and order dated 27th February, 2017 passed by the Sessions Judge dismissing Criminal Appeal No.761/2012 while upholding the judgment and order dated 5th November, 2012 passed by the Metropolitan Magistrate 48th Court, Andheri in C.C. No.994/SS/2011. The Magistrate Court convicted the applicant of an offence under Section 138 of the Negotiable Instruments Act and ordered payment of compensation of Rs.23,50,000/-. Since only a part of the amount was paid by the applicant, the accused was taken into custody.

2. Learned Counsel for the parties appearing today state that the offence being compoundable, parties have arrived at a settlement whereby a total sum of

Rs.12,50,000/- is being accepted by the original complainant – respondent no.2 who is present in Court. Consent terms signed by the parties and their Advocates are tendered. Their signatures have been identified by their Advocates. The Consent terms are taken on record and marked as 'X' for identification.

3. Perused the consent terms which provide for payment of a sum of Rs.12,50,000/- by cheques. The respondent no.2 (original complainant) is a partnership firm which is represented by his partner Mr. Manjunath Shetty who has been authorized to enter into these consent terms vide a resolution adopted on 12th June, 2017 copy of which is annexed with the consent terms. Respondent no.2's authorized signatory and partner is present Court and he confirms and signed the consent terms having accepted the payment of Rs.12,50,000/- in full and final settlement.

4. In the circumstances, I pass the following order :

- (i) The revision application is allowed in terms of the consent terms. The order of the Sessions Court dated 27th February, 2017 and Order of Metropolitan Magistrate Court dated 5th November, 2012 are quashed and set aside.
- (ii) Undertakings contained in the consent terms are accepted.
- (iii) The applicant is acquitted of the offence and shall be released from jail forthwith.
- (iv) The applicant shall pay costs of Rs.10,000/- to the Maharashtra State Legal Services Authority within 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.

(v) Parties including the jail authorities to act on an authenticated copy of this order.

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

5. In view of the disposal of the Criminal Application No.398 of 2017 vide order dated 29th June, 2017, Criminal Application No.335 of 2017 does not survive. The same is also disposed of.

(A. K. MENON, J.)