

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

**CRIMINAL REVISION APPLICATION NO.399 OF 2017
WITH
CRIMINAL APPLICATION NO.370 OF 2017**

Mubarak Husain Mulani .. Applicant.

Vs.

The State of Maharashtra & Ors. .. Respondents.

Mr.Balwant Vitthal Salunkhe for the Applicant.

Ms.P.N. Dabholkar APP for the State.

Mr.Hamid D. Mulla for Respondent No.2.

CORAM : A. K. MENON, J.

DATED : 19TH JULY, 2017

P.C. :

1. By this criminal revision application, the applicant seeks to challenge the order dated 14th July, 2017 dismissing Criminal Appeal No.22 of 2013. Criminal Appeal No.22 of 2013 is filed challenging the judgment dated 12th April, 2013 passed by the JMFC, Pandharpur convicting the accused/applicant for the offence under Section 138 of the Negotiable Instruments Act to suffer simple imprisonment for two months and also ordered for payment of compensation of Rs.3,30,000/- to respondent no.2 within two months from the date of the judgment. The applicant is in custody and is stated to be lodged in Pandharpur jail. A bail application being Criminal Application No.370 of 2017 has also been taken out.

2. The learned Advocate for the parties appearing today state that the dispute between the applicant and respondent no.2 has been settled. Respondent No.2, who is present in the Court has sworn an affidavit dated 19th July, 2017 in which he states that the dispute has been settled amicably and he has agreed to accept Rs.3,30,000/- in full and final settlement. He has no other claim against the present applicant and he has no objection if the offence is compounded and revision application being allowed in terms of the settlement. The applicant has already deposited total sum of Rs.3,30,000/- in the Sessions Court at Pandharpur, out of which Rs.1,10,000/- was deposited at the time of filing appeal and balance has been deposited yesterday. He has produced receipts evidencing deposit for perusal of this Court. Learned Advocate for respondent no.2 states that he has verified that the amount is so deposited. It is further recorded that he has no objection if the accused/applicant is released on bail in the meantime and that he be permitted to withdraw the said amount of Rs.3,30,000/-. In the circumstances the offence being compoundable, it would be appropriate that the revision application is disposed of. In the circumstances I pass the following order :

(a) Revision Application is allowed.

(b) The conviction and sentence in C.C.No.353/SS/2010 and the judgment and order passed by the learned Additional Sessions Judge, Pandharpur in Criminal Appeal No.22 of 2013 dated 14th July, 2017 is set aside.

(c) In view of the settlement and affidavit filed by respondent no.2 the amount of Rs.3,30,000/- shall therefore be allowed to be withdrawn by respondent no.2 from the Sessions Court, Pandharpur.

(d) The applicant/accused shall be forthwith released from Pandharpur jail.

(e) The Applicant shall pay Rs.5,000/- as costs to the Maharashtra State Legal Services Authority within a period of two weeks from today. If the costs are not so paid this order shall stand vacated.

(f) Stand over to 2nd August, 2017 for recording compliance of directions contained in clause (e) above.

(A.K. MENON, J.)