

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.440 OF 2016

Shaikh Mujeeb Shaikh Karim .. Applicant
Versus
State of Maharashtra & Anr. .. Respondents

Mr.M.N.Sandhyanshiv for applicant
Mr. P.H.Gaikwad Patil, APP for State
Mr. Sunil Aggrawal – respondent No.2 present.

CORAM : ANUJA PRABHUDESSAI, J.
DATE : 28th August 2017.

P.C.

1] The applicant / accused in Summary Criminal Case No.902 of 2012 has, by this revision application, challenged the judgement and order dated 27th July 2016, whereby the learned Additional Sessions Judge – I, Malegaon dismissed the appeal No.32 of 2013.

2] The respondent No.2 who was original complainant in SCC No.902 of 2012 had filed a complaint under section 138 of Negotiable Instruments Act. By the judgement dated 18th October 2013, the learned JMFC Malegaon (Court No.4) held the applicant herein guilty of offences punishable under section 138 of N.I.Act and

sentenced the applicant to undergo S.I. for three months and to pay compensation of Rs.20,000/-. In default, to undergo S.I. for one month. Appeal No.32 of 2013 was dismissed by the learned Additional Sessions Judge by the impugned judgement dated 27th July 2016. Being aggrieved by the same the applicant has preferred this revision.

3] During the pendency of this revision application, both parties have resolved the disputes amicably. They have filed consent terms which are signed by the applicant and respondent No.2. Both the parties have conceded that they have resolved the dispute amicably and that the consent terms are drawn as per their instructions. They have identified their respective signatures on the consent terms and have stated that the said terms are agreeable to them. The consent terms are taken on record and marked "X" for identification and the same read thus:-

CONSENT TERMS

1. The Respondent No. 2 had filed the complaint No. 902 of 2012 for the offences punishable U/s. 138 of Negotiable Instrument Act, before the Ld. Magistrate at

Malegaon, Dist : Nashik against the Applicant. After recording evidence and hearing the parties the Ld. Magistrate was pleased to convict the Applicant by order dated 18/10/2013, sentenced to suffer simple imprisonment for the period of three months, and directed the Applicant to pay compensation of Rs. 20,000/- to the Respondents.

2. Being arrived by the said order dated 18/10/2013 passed in SCC No. 902 of 2012 by the Ld. Magistrate at Malegaon, the Applicant filed Cri. Appeal No. 32 of 2013 before the Ld. Addl. Sessions Judge at Malegaon. The Ld. Addl. Sessions Judge was pleased to dismissed Appeal on 27/07/2016.

3. The Applicant preferred the present Criminal Revision Application No. 440 of 2016 along with Application for bail bearing No. 446 of 2016 before this Hon'ble Court, challenging the order of Ld. Sessions Judge at Malegaon. On 01/08/2016, this Hon'ble Court was pleased to grant bail to the Applicant on condition that the Applicant shall deposit the amount of compensation of Rs. 20,000/- awarded by the Ld. Trial Court within two weeks from his release.

4. The Applicant and Respondent No. 2 arrived at settlement and the Applicant had paid Rs. 20,000/- by cash to the Respondent No. 2. The Respondent No. 2 conformed said fact by way of affidavit duly affirmed before the Notary Public dated 25/08/2016. The copy of the affidavit dated 25/08/2016 is annexed herewith and marked **Exhibit – A**.

5. In the aforesaid circumstances, the Applicant and Respondent No. 2 prays that, the matter between the Applicant and Respondent No. 2 is settle amicably and hence, this Hon'ble Court be pleased to quashed and set aside the order dated 18/10/2012 passed by Ld. Judicial Magistrate, at Malegaon in SCC No. 902 of 2012 and order dated 27/07/2016 passed by Ld. Addl. Sessions Judge at Malegaon, Dist : Nashik in Cri.

Appeal No. 32 of 2013.

4] Learned Counsel for respondent No.2 submits that he has received cash of Rs.20,000/- from the applicant. Since the parties have already settled the dispute amicably, leave is granted to compound the offence. Hence, conviction and sentence imposed by judgement and order dated 18th October 2013 is hereby quashed and set aside. The applicant to pay cost of Rs.2500/- to Maharashtra State Legal Services Authority within a period of one week from today. For compliance, S.O. one week.

(ANUJA PRABHUDESSAI, J.)