

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION (ST) NO. 447 OF 2017

Prabhakar Kashiram Anbhavane

..... Applicant

VERSUS

**Manoharan Gopalan Nair &
State of Maharashtra**

..... Respondents

Ms.Neesha Mailagir, i/b. Mr.Anil D.Joshi for the Applicant.

Ms.Rajlaxmi Punjabi for the Respondent no.1.

Mr.R.M.Pethe, A.P.P. for the State.

CORAM : A.M.BADAR, J.

DATE : 6th OCTOBER, 2017

P.C.

Today after condoning the delay when the revision petition is taken up for hearing, the learned advocate appearing for the revision petitioner/original accused as well as Ms.Rajlaxmi Punjabi, learned advocate for the respondent no.1/original complainant submitted that the parties have settled the matter outside the Court and they are tendering consent terms. On submission of the consent terms by them, they are taken on record and marked Ex.'X' for the purpose of identification.

2. Ms.Rajlaxmi Punjabi, the learned advocate appearing for the respondent no.1 Manoharan G.Nair submitted that the respondent Manoharan G.Nair/original

complainant is present before the court and she identifies him. Learned advocate further identifies the signature of the respondent Manoharan G.Nair on the consent terms, Ex.'X'. Upon being asked, respondent no.1 Manoharan G.Nair accept the facts that the parties have settled the matter outside the court and he does not want to proceed with his complaint and resultant conviction and sentence imposed on the revision petitioner/accused be quashed. He also identifies his signature on the consent terms.

3. It appears that the parties have entered into compromise and settled the matter out of their free will and without there being there any force coercion or undue representation to them. The parties have sought for setting aside the conviction and sentence imposed on the revision petitioner. Ms.Rajlaxmi Punjabi, the learned advocate stated that the respondent Manoharan G.Nair has received the demand draft of Rs.2,27,625/- and remaining amount is stated to have been deposited with the Sessions Court, Thane. The learned advocate for the revision petitioner states that the revision petitioner/original complainant has no objection if the same is withdrawn by respondent no.1/original complainant.

4. As parties have mutually settled the matter which is offence punishable under section 138 of the Negotiable Instrument Act, 1881, by executing the

consent terms at Ex.'X', the impugned judgment and order dated 6th January,2014 passed in S.C.C. No. 2946 of 2008 between the parties by the learned J.M.F.C., Vashi and the judgment and order of the Appellate Court dated 14th March,2017 in Criminal Appeal No. 73 of 2014 dismissing appeal of the revision petitioner/original complainant are quashed and set aside. The revision petitioner/original accused is acquitted of the offence punishable under section 138 of the Negotiable Instruments Act, 1881 in view of the consent terms Ex.'X' arrived at between the parties.

5. As the learned advocate for the revision petitioner/original accused has stated that the revision petitioner/original accused has deposited an amount of Rs.2,27,625/- before the learned Sessions Judge, Thane in view of the settlement between the parties in the light of the condition no.8 of the consent terms, the respondent no.1/original complainant is permitted to withdraw the said amount.

6. The Revision petition is accordingly disposed of.

7. In view of the disposal of the revision petition, pending criminal applications if any, stands disposed of.

(A.M.BADAR, J.)