

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

CRIMINAL REVISION APPLICATION NO.116 OF 2016

Bimlesh Yogendranath Pathak ...Applicant

Versus

M/s. SNB Infrastructure Pvt. Ltd. &
Anr. ...Respondents

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**WITH
CRIMINAL APPLICATION NO.673 OF 2016
AND
CRIMINAL APPLICATION NO.586 OF 2016
AND
CRIMINAL APPLICATION NO.649 OF 2016
IN
CRIMINAL REVISION APPLICATION NO.116 OF 2016**

M/s. SNB Infrastructure Pvt. Ltd.

In the matter between

Bimlesh Yogendranath Pathak ...Applicant

Versus

M/s. SNB Infrastructure Pvt. Ltd. &
Anr. ...Respondents

Mr. A.S. Kazi for the Applicant in REVN/116/2016 and for Respondent No.1 in APPR/586/2016, APPR/649/2016 and APPR/673/2016.

Mr. Farooqui M. Aslam i/b. Mr. R.A. Singh for the Respondent No.1 in REVN/116/2016 and for the Applicant in APPR/586/2016, APPR/649/2016 and APPR/673/2016.

Mrs. M.R. Tidke, APP for the Respondent No.2-State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED : 23rd AUGUST, 2017.

P.C.:-

The Applicant has challenged the judgment and order dated 29th December, 2015 in Criminal Appeal No.287 of 2014.

2. The Applicant was an accused in CC/2264/SS/2012 on the file of the Metropolitan Magistrate, Bandra. He was prosecuted for the offence punishable under Section 138 of the Negotiable Instruments Act. By judgment and order dated 7th January, 2014, the learned Metropolitan Magistrate held the Applicant guilty of offence under Section 138 of the NI Act and sentenced him to suffer simple imprisonment for three months and to pay compensation of Rs.15,00,000/- and interest thereon at the rate of Rs.9% p.a. The Applicant challenged the said judgment in Criminal Appeal No.287 of 2014. The said appeal came to be dismissed by the impugned judgment dated 29th December, 2015. Hence, this revision.

3. During the pendency of this Revision Application both parties have settled the dispute amicably. They have placed on record the consent terms, which read as under :-

TERMS OF SETTLEMENT

“Both the parties agree for the settlement for an amount of Rs.15,00,000/- being full and final amount payable to the First

Party by Second Party.

The Second Party has deposited with the Hon'ble Bombay High Court being precondition for admission of his appeal No.116 of 2016 an amount of Rs.20,73,750/- (Rupees Twenty Lakhs Seventy Three Thousand Seven Hundred Fifty Only) in total the break of which is under:

- Rs.15,00,000/-: Being amount toward the dishonoured Cheque amount.
- Rs.5,73,750/- : Being amount towards interest as per Trial Court order dated 7.01.2014

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Rs.20,73,750/- : Total amount deposited with the
===== Hon'ble Bombay High Court.

The First Party shall withdraw the amount of Rs.15,00,000/- from the above mentioned total amount being their legitimate dues.

The Second Party shall withdraw the interest amount of Rs.5,73,750/- or any amount thereof lying in deposit with this Hon'ble court.

The First Party hereby unconditionally waives off and does not press for the balance simple imprisonment term of 2 months and 4 days for the Second Party on receipt of the above mentioned amount of Rs.15,00,000/- and upon signing of this Consent Terms.

The above mentioned amount is in full and final settlement in terms of pending Criminal Revision Application No.116 of 2016 filed by the Second Party Mr. Bimlesh Pathak and Criminal Applications No.586 of 2016, 649 of 2016 and 673 of 2016 filed by S.N.B Infrastructure Pvt. Ltd. Upon signing of this Consent Terms the Criminal Revision Application filed by The Second Party and all the Criminal Applications filed by the First Party stand settled and withdrawn.

That if for any reason the Hon'ble High Court levies any cost, the same shall be borne by The First Party.

That upon signing of this Consent Terms, either party shall have no claim of whatsoever nature against each other and all disputes shall be treated as finally settled and resolved. The First Party shall have no further claim against the Second Party Mr. Bimlesh Y. Pathak upon receiving the settlement amount in full and final.”

4. The terms are signed by both the parties and their respective counsels. The Applicant as well as the Respondent No.1 have confirmed their signatures and have further reiterated the terms and have undertaken to abide by the same. Both parties have also agreed to pay sum of Rs.50,000/- (Rupees Fifty Thousand only) towards costs to Tata Memorial Hospital.

5. The consent terms are voluntary and genuine. Hence, the same are taken on record and marked 'x' for identification. The statements/undertaking recorded in the consent terms are accepted.

6. In the light of the consent terms leave is granted to compound the offence under Section 138 of the Negotiable Instruments Act.

7. The conviction and sentence passed by the learned Metropolitan Magistrate, Bandra, Mumbai IN c.c. No.2264/SS/2012 and confirmed in Criminal Appeal No.287 of 2014 by the learned Additional Sessions Judge, Greater Mumbai are hereby quashed and set aside.

8. The Applicant and the Respondent No.1 are directed to pay costs of Rs.50,000/- to Tata Memorial Hospital within a period of two weeks from the date on which this order is uploaded.

9. Registry to refund Rs.5,73,750/- to the Applicant and Rs.15,00,000/- to the Respondent No.1 from the amount of

Rs.20,73,750/-, deposited before this Court.

10. The Revision Application stands disposed. All other applications stand disposed of in view of disposal of the Revision Application.

11. Stand over to **6.9.2017** for compliance.

(ANUJA PRABHUDESSAI, J.)