

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.713 OF 2016

WITH

CRIMINAL APPLICATION NO.778 OF 2016

IN

CRIMINAL REVISION APPLICATION NO.713 OF 2016

SWAPNIL VINAYAK KESARKAR

)...APPLICANT

V/s.

LAXMIBAUG SAHAKARI PATPEDHI

)

MARYADIT AND ANR.

)...RESPONDENTS

Mr.Kamlesh Mishra, Advocate for the Applicant.

Mr.N.V.Tambe, Advocate for Respondent No.1.

Mr.A.R.Kapadnis, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 18th JANUARY 2017.

P.C. :

1 Revisional applicant / original accused Swapnil Vinayak Kesarkar by this revision application is challenging the judgment and order passed by the learned Additional Sessions Judge, Greater Bombay, Mumbai, on 19th December 2016, thereby

rejecting his Criminal Application bearing No.224 of 2016 and confirming the judgment and order dated 22nd August 2014 passed by the learned Metropolitan Magistrate, 72nd Court, Vikhroli, Mumbai, thereby convicting the applicant / accused of the offence punishable under Section 138 of the Negotiable Instruments Act and sentencing him to suffer simple imprisonment for 2 months, apart from directing him to pay compensation amounting to Rs.2,25,546/- to the respondent / original complainant, in default, to undergo further simple imprisonment for 3 months.

2 Today, the learned counsel appearing for parties have presented Consent Terms executed by the parties. For the purpose of identification, Consent Terms are marked as Exhibit "X". On behalf of original complainant / respondent no.1 Laxmibaug Sahakari Patpedhi Maryadit, Shri Jayant Ahire, Director, and Shri Sandeep Lande, Junior Clerk, are present. Upon being asked, they both have unanimously stated that respondent no.1 / original complainant does not want to prosecute the complaint as the

entire loan amount included in the cheque is already paid by the mother of the revisional applicant and nothing is now due from the revisional applicant. Upon inquiry, it is seen that the matter is settled amicably between the parties. Along with terms of compromise, documents such as Resolution of Laxmibaug Sahakari Patpedhi Maryadit and photocopies of identity card of Shri Jayant Ahire and Shri Sandeep Lande are also placed on record. In Consent Terms it is prayed that both parties agree that the impugned judgment and order of conviction so also the appellate judgment and order confirming the said conviction and sentence, be quashed and set aside.

3 As parties have mutually settled the matter between themselves, I see no reason for not accepting the Consent Terms. Hence the Consent Terms marked as Exhibit “X” are accepted. With this the following order :

- i) The Revision Application stands disposed of in terms of Consent Terms marked Exhibit “X”.

- ii) Impugned judgment and order passed by the learned Metropolitan Magistrate, 72nd Court, Vikhroli, Mumbai, on 22nd August 2014 in Criminal Case No.1143/SS/2013 convicting and sentencing the revisional applicant for the offence punishable under Section 138 of the Negotiable Instruments Act, so also the appellate judgment and order passed on 19th December 2016 in Criminal Appeal No.224 of 2016 between the parties by the learned Additional Sessions Judge, Greater Bombay, Mumbai, are quashed and set aside.
- iii) The revisional applicant / accused be set at liberty forthwith if not required in any other case.
- iv) Revision application stands disposed of accordingly.

4 In view of disposal of revision application, Criminal Application No.778 of 2016 does not survive. The same is also disposed of.

5 Parties to act upon authenticated copy of this order.

(A. M. BADAR, J.)