

IN THE HIGH COURT OF BOMBAY AT GOA

Criminal Writ Petition No.87/2018

Rajendra Narayan Rane

Petitioner.

Versus

M/s. Sai Sateri Transport

Respondent

Shri Rajneesh Naik, Advocate for the petitioner.

Shri Deepak Gaonkar, Advocate for the respondent.

CORAM: NUTAN D. SARDESSAI, J.

DATED :25th APRIL, 2018.

P.C.

Shri D.Gaonkar, learned Advocate waives notice on behalf of the respondent and undertakes to file his Vakalatnama on behalf of the respondent in the Registry during the course of the day.

2. Shri Rajneesh Naik, learned Advocate submits that the applicant is in jail while the respondent through its partner is present in the Court. The Consent Terms are filed on record on behalf of the petitioner and the respondent to compound the offence punishable under Section 138 of the Negotiable Instruments Act.

3. The petitioner herein was convicted by the learned Judicial Magistrate First Class, vide its judgment dated 04.03.2016 and

sentenced to undergo imprisonment for a period of five months with a direction to pay the compensation amount of ₹3,00,000/-, in default simple imprisonment for four months. This judgment of conviction was carried in Appeal before the learned Additional Sessions Judge and it was confirmed by the learned Additional Sessions Judge by his judgment and dismissed the Appeal. The Criminal Revision Application preferred before this Court, was dismissed by the learned Single Judge of this Court (Shri C.V.Bhadang, J.) vide the order dated 27.02.2018 and directed the learned Magistrate to issue a non-bailable warrant against the petitioner and ensure his arrest to serve the sentence.

4. Be that as it may, the parties have filed the Consent Terms, which have been duly signed by the respondent through its partner, his Advocate and the learned Advocate on behalf of the petitioner.

5. Shri Rajneesh Naik, learned Advocate submits that the parties be permitted to compound the offence and placed reliance on the order of this Court in Shri Satish Vaman Madkaikar Vs. Shri Xavier D'Sozua and another [Criminal Application (Main)no.247/2008], wherein the permission was granted to compound the offence.

6. Considering the judgment in Satish Vaman Madkaikar (supra),

i am of the view that the interest of justice would be served if the permission for compounding the offence punishable under Section 138 of the Negotiable Instruments is granted.

7. In view thereof, the conviction and sentence passed by the Judicial Magistrate First Class in the Criminal Case No.216/OA/138/2011/C and maintained by the Court of the learned Additional Sessions Judge and this Court in Criminal Revision Application No.58/2017 are quashed and set aside. The applicant is acquitted of the offence punishable under Section 138 of the Act. The applicant is directed to deposit 15% of the cheque amount by way of costs to the Goa State Legal Services Authority. The applicant, who is in jail, is ordered to be set at liberty, if not required in custody in any other case. The petition is accordingly disposed off.

8. Authenticated copy of this order be supplied to the parties.

NUTAN D. SARDESSAI, J.

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