

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.37 OF 2018
WITH
CRIMINAL APPLICATION NO.21 OF 2018

Vilas Ramchandra Nehe, Age 62 years,
Occ.Business, R/o.Rukmini Bungalow,
House No.108, S.No.15/2/2/5, Neha Complex,
Behind Cosmos Bank, NDA Road,
Juna Jakat Naka, Warje, Pune.

Applicant

versus

1. Dr.Rajiv Ashtputre, Age 63 years,
Occ.Business, R/o.49, Girish Society,
Near Vimal Vidya Kunj School, Warje,
Pune-400 058.

2. The State of Maharashtra

Respondents

Mr.Rajesh A. More for applicant.
Mr.Ranjeet H. Patil for respondent no.1.
Ms.Neeta S. Jain, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 7th February 2018

PC :

1. This revision application is filed challenging the judgment and order dated 17th January 2013 passed by Judicial Magistrate, First Class, Pune in Summary Criminal Case No.22034 of 2009. The applicant was convicted for offence under section 138 of Negotiable Instruments Act. He was sentenced to undergo simple imprisonment and was directed to pay fine of Rs.6,30,000/- out of which

Rs.6,25,000/- was directed to be paid to the complainant. The appeal filed by the applicant before the Sessions Court was partly allowed and the substantive sentence for one month passed by the Magistrate, was set aside. However, rest of the conviction order was confirmed and the applicant was directed to deposit the fine before the Trial Court within fifteen days. The appeal was dismissed vide judgment and order dated 2nd January 2018.

2. Pending the revision application, the parties have settled the dispute. The consent terms dated 7th February 2018 executed by the applicant and respondent no.1, are tendered before the Court. The consent terms are signed by both the parties and their respective advocates. In the consent terms it is stated that the revision applicant has deposited Rs.1,00,000/- before the Appellate Court. The revision applicant has agreed to make payment of Rs.4,50,000/- to respondent no.1-complainant. It is further stated that the revision applicant has issued banker's cheque dated 3rd February 2018 for Rs.1,25,000/- and two post dated cheques dated 30th June 2018 and 30th December 2018 for Rs.75,000/- and Rs.1,50,000/- respectively. The consent terms further indicate that Rs.1,00,000/- deposited in the Appellate Court is allowed to be withdrawn by respondent no.1-complainant. Both the parties have agreed that the impugned judgments and orders of conviction may be quashed and set aside. It is also stated that the dispute between the parties is settled in accordance with consent terms and the offence u/s 138 of Negotiable Instruments Act may be compounded and orders of both the Courts below may be quashed and set aside and the applicant be acquitted. The consent terms dated 7th February 2018 is taken on record and marked "X" for identification.

3. Both the parties are present in the Court and they have confirmed the consent terms. In accordance with the consent terms, the offence can be compounded and the revision applicant/accused is required to be acquitted of the offence u/s 138 of Negotiable Instruments Act. However, it is also pertinent to note that the revision applicant has issued two post dated cheques for Rs.75,000/- and Rs.1,50,000/- respectively. In case these post dated cheques are dishonoured, the respondent-complainant will be at liberty to move the Court for revival of the proceedings.

4. Hence, I pass following order :

ORDER

(i) In accordance with the consent terms dated 7th February 2018 and in view the settlement and in the light of Section 147 of Negotiable Instruments Act, the impugned judgment and order dated 17th January 2013 of Judicial Magistrate, First Class, Pune in Summary Criminal Case No.22034 of 2009, and the judgment and order of learned Sessions Judge, Pune in Criminal Appeal No.70 of 2013 dated 2nd January 2018, are quashed and set aside, and the revision applicant is acquitted of the offence u/s 138 of Negotiable Instruments Act;

(ii) The respondent no.1-complainant is permitted to withdraw Rs.1,00,000/- deposited in Criminal Appeal No.70 of 2013 in Sessions Court, Pune;

(iii) In the event the two post dated cheques issued by the applicant in favour of respondent no.1 for Rs.75,000/- and

Rs.1,50,000/- respectively are dishonoured, the respondent no.1-complainant will be at liberty to move the Court for revival of the proceedings;

(iv) Criminal Revision Application No.37 of 2008 is disposed of.

(PRAKASH D. NAIK, J.)

MST