

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

**CRIMINAL APPLICATION NO. 58 OF 2018
WITH
CRIMINAL REVISION APPLICATION NO. 657 OF 2017**

Deepak Dnyaneshwar Awachat ... Applicant
Vs.
M/s Sujata Computers Pvt. Ltd. & Anr. ... Respondents
...
Mr. Mahesh Rawool I/by Mr. Avinash Avhad for the applicant.
Mr. Nilesh M. Wable for the Respondent No.1.
Mrs. M.R. Tidke, APP for the Respondent-State.
...

**CORAM : PRAKASH D. NAIK, J.
DATE : 27th JUNE, 2018.**

P.C.

1. The applicant is convicted for an offence punishable under Section 138 of the Negotiable Instruments Act vide Judgment and Order dated 27th November, 2012. He was sentenced to suffer imprisonment for a period of one month and directed to pay a sum of Rs.40,000/- as compensation to the complainant. Thereafter, the applicant preferred an appeal before the Sessions Court and the same was dismissed vide Judgment and Order dated 18th November, 2017.

2. Both the advocates appearing for the parties submitted that the matter has been settled. The complainant has tendered an affidavit dated 27th June, 2018. The affidavit is affirmed by the representative of the complainant-company. The resolution authorising the representative Shri Raj Dhadave has been annexed to the affidavit. In the resolution, it is mentioned that the representative is permitted to appear in this Criminal Application and to compromise the matter before this Court. The said representative is present in the Court and has confirmed the contents of the affidavit. He is identified by the advocate for the complainant.

3. In the affidavit, it is stated that the parties have settled the entire dispute for an amount of Rs.75,000/- as full and final settlement. The demand draft of Rs.75,000/- bearing No. 029973 dated 28th November, 2017 was already handed over to the complainant and the same has been honoured. It is submitted that complainant has no objection for compromise and to set aside the conviction order passed by the Courts below. The affidavit is taken on record and marked "X" for identification. Learned advocate for the applicant submitted that the applicant/accused is not present in the Court as he is suffering from paralysis and it is

not possible for him to attend the proceeding.

4. Taking into consideration the aforesaid aspect and in the light of Section 147 of Negotiable Instrument Acts, parties have settled the dispute, the offence under Section 138 of the Negotiable Instruments Act can be compounded and request made by the parties deserves to be allowed. The compensation which was awarded by the trial Court in the sum of Rs.40,000/-, has been settled by way of Rs.75,000/- which has already parted to the complainant by demand draft. Hence, I pass the following order.

ORDER

(i) In accordance with the consent terms dated 27th June 2018 and settlement arrived at between both the parties, the Judgment and Order dated 27th November, 2012 passed by the learned Judicial Magistrate, First Class, Pune in Summary Criminal Case No. 28658 of 2005 convicting the applicant for the offence punishable under Section 138 of the Negotiable Instruments Act as well as Judgment and Order dated 18th November, 2017 passed by the learned Additional Sessions Judge, Pune dismissing the Criminal Appeal No. 16 of 2013 are hereby set aside. The impugned offence is allowed to be compounded;

(ii) The applicant is acquitted for the offence under Section 138 of the Negotiable Instruments Act which is subject matter of the proceeding;

(iii) The Criminal Revision Application No. 657 of 2017 and Criminal Application No. 58 of 2018 stand disposed of.

(PRAKASH D. NAIK, J.)