

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION (STAMP) NO.87 OF 2018
WITH
CRIMINAL APPLICATION NO.77 OF 2018
AND
CRIMINAL APPLICATION NO.78 OF 2018

K.P.Sasi Nair	Applicant
versus	
M/s.N.S.Rolling Steel Pvt.Ltd. and another	Respondents

Ms.Neelam Ghorpade for applicant.
Ms.Savitri Khaniya for respondent no.1.
Mr.PH.Gaikwad, APP, for State.

CORAM : PRAKASH D. NAIK, J.
DATE : 20th June 2018

PC :

1. The applicant is convicted for offence under Section 138 of Negotiable Instruments Act. By judgment and order dated 26th February 2015 the Court of Judicial Magistrate, First Class, Vashi convicted the applicant for the aforesaid offence and was sentenced to suffer simple imprisonment for three months. He was also directed to pay compensation of Rs.14 lakh. The said judgment was challenged before the Court of Sessions by preferring Criminal Appeal No.55 of 2015, which is dismissed by judgment dated 7th May 2016. Criminal Revision Application No.87 of 2018 has been preferred challenging the judgments passed by both the Courts below, convicting the applicant.

2. It is submitted by learned counsel representing both the parties that the dispute has been amicably settled between the parties for an

amount of Rs.7 lakh. In the revision application it is stated that matter is settled for an amount of Rs.7,00,000/- as a full and final settlement amount. The complainant has received Rs.5,25,000/- and the remaining amount of Rs.1,75,000/- is deposited in Court. It is also agreed that the complainant be allowed to withdraw a sum of Rs.1,75,000/- which is deposited by the accused before the Sessions Court during pendency of the appeal. The consent terms/settlement signed by Ravi Nandan, Director of complainant company has been annexed as Annexure-D to the application. The aforesaid terms are reflected in the said consent terms.

3. The consent terms executed by the parties are placed on record. In the said consent terms also it is mentioned that the parties have settled the dispute for Rs.7,00,000/- which is in full and final settlement of the claim of the complainant. It is also stated that the complainant has received Rs.5,25,000/- as part payment of the settlement and the remaining amount of Rs.1,75,000/- is lying in the Sessions Court. The parties have also tendered an application for compounding the proceedings. The consent terms and application for compounding the offence are taken on record and marked "X" for identification.

4. The representative of the complainant-respondent Mrs.Manisha Bandagar, Assistant Manager, is present in the Court. It is submitted by learned counsel for complainant that she has been authorized to represent the complainant-company in these proceedings. The consent terms are executed by respondent-complainant through her. Both parties who are present in Court, have confirmed the consent terms. They are identified by their respective advocate.

5. In the aforesaid circumstances the prayer for compounding the offence can be allowed. It is noted that parties have amicably settled the dispute. Rs.5,75,000/- has been paid to the complainant and balance Rs.1,75,000/- is deposited in the Court by the accused. The matter is settled for Rs.7,00,000/-. In accordance with Section 147 of the Negotiable Instruments Act and in the light of consent terms executed by the parties, the prayer for compounding can be allowed. The complainant has no objection for quashing the impugned judgments and orders passed by Courts below and allowing the offence to be compounded.

6. The revision applicant has filed Criminal Application No.77 of 2018 for condonation of delay of one year and 175 days in preferring the revision application. The delay is condoned by consent.

7. Hence, I pass following order :

ORDER

(i) In accordance with the consent terms, the impugned judgment and order dated 26th February 2015 passed by Judicial Magistrate, First Class, Vashi in S.C.C.No.697 of 2013 and the judgment and order dated 7th May 2016 passed by 2nd Additional Sessions Judge, Thane in Criminal Appeal No.55 of 2015, are set aside, and parties are allowed to compound the offence and in view thereof, the applicant is acquitted of the offence u/s 138 of Negotiable Instruments Act;

(ii) The respondent-complainant is permitted to withdraw Rs.1,75,000/- deposited by the applicant in Sessions Court during pendency of appeal;

(iii) Criminal Revision Application (St) No.87 of 2018, Criminal Application No.77 of 2018 and Criminal Application No.78 of 2018 stand disposed off.

(PRAKASH D. NAIK, J.)

MST