

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.100 OF 2018
WITH
CRIMINAL APPLICATION NO.107 OF 2018

Shaikh Hajisab Rajasab

Applicant

versus

Kawale Sachin Ramdas and another

Respondents

Mr.Rahul S. Kate for applicant.

Mrs.M.R.Tidke, APP, for State.

Mr.Sachin Ramdas Kawale for respondent no.1

CORAM : PRAKASH D. NAIK, J.

DATE : 21st February 2018

PC :

1. The applicant is convicted for offence under Section 138 of Negotiable Instruments Act vide judgment and order dated 14th March 2017 passed by learned Judicial Magistrate, First Class, Baramati in STC No.934 of 2013. The applicant was sentenced to suffer imprisonment for three months and was also directed to pay compensation of Rs.4,50,000/- to the complainant. The appeal preferred by the applicant viz Criminal Appeal No.27 of 2017 was dismissed by the Additional Sessions Judge, Baramati vide judgment and order dated 20th January 2018.

2. During pendency of this application the parties have amicably settled the dispute. The consent terms signed by respondent no.1-complainant and his advocate as well as advocate for applicant dated

21st February 2018 are tendered before the Court. It is submitted that since the revision applicant is in custody, the consent terms could not be signed by him. However, an affidavit executed by the nephew of the revision applicant dated 21st February 2018, who is present in the Court, as well as affidavit of respondent no.1 dated 21st February 2018, is tendered before the Court. All the three documents viz consent terms, affidavit filed by nephew of revision applicant and affidavit of respondent no.1, are taken on record and marked "X", "X-1" and "X-2" respectively for identification.

3. The complainant is present in the Court. He has confirmed the contents of the consent terms as well as affidavit and stated that the parties have compromised the dispute and he has no objection for setting aside the conviction and compounding the offence. It is submitted that the amount of compensation of Rs.4,50,000/- has already been paid to the complainant. In the consent terms it is categorically stated that the respondent no.1 has received a sum of Rs.4,50,000/- by way of full and final settlement. He has no objection for allowing the revision application and quashing and setting aside the judgment and order of sentence imposed on the revision applicant.

4. In the aforesaid circumstances and in the light of Section 147 of Negotiable Instruments Act, the parties can be permitted to compound the offence u/s 138 of Negotiable Instruments Act and the judgment and order of conviction deserves to be quashed and set aside. On account of compounding the offence, the applicant is required to be acquitted of the said offence. Hence, I pass following order :

ORDER

- (i) Criminal Revision Application No.100 of 2018 is allowed;
- (ii) In view of the compromise arrived at between the parties and in accordance with Section 147 of the Negotiable Instruments Act, the offence u/s 138 of Negotiable Instruments Act, is compounded and the impugned judgment and order dated 14th March 2017 passed by learned Judicial Magistrate, First Class, Baramati in STC No.934 of 2013, and the judgment and order dated 20th January 2018 passed by Additional Sessions Judge, Baramati in Criminal Appeal No.27 of 2017, are quashed and set aside, and the applicant is acquitted of the offence u/s 138 of Negotiable Instruments Act;
- (iii) The applicant may be released from the custody forthwith;
- (iv) In view of disposal of revision application itself, Criminal Application No.107 of 2018 does not survive and stands disposed off as such.

(PRAKASH D. NAIK, J.)

MST