

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.191 OF 2016

Satish Tandon

Applicant

versus

The State of Maharashtra and others

Respondents

Mr.Kamlesh Jain for applicant.

Mr.Swapnil S. Pednekar, APP, for State.

Mr.Ram M. Upadhyay for respondent no.2.

CORAM : PRAKASH D. NAIK, J.

DATE : 12th January 2018

PC :

1. The applicant is the original accused who has been convicted for offence under Section 138 of Negotiable Instruments Act vide judgment and order dated 4th December 2013 passed by 14th Metropolitan Magistrate's Court, at Girgaum, Mumbai in CC No.3452/SS/2005. The applicant was sentenced to undergo simple imprisonment for six months and was directed to pay compensation of Rs.3.20 lakh.

2. The applicant-accused thereafter filed an appeal viz Appeal No.2 of 2014 before the Court of Sessions challenging the judgment and order of conviction. The respondent-complainant had also filed Revision Application No.359 of 2014 seeking enhancement of sentence. Vide judgment and order dated 22nd February 2016 the Appellate Court confirmed the order of conviction, however, the sentence of imprisonment was reduced to five months and the amount of compensation was enhanced.

3. In view of the aforesaid judgments and orders, the applicant-accused had preferred this revision application before this Court. During pendency of the revision application, the applicant has deposited Rs.3 lakh before the Sessions Court towards compensation amount. During pendency of this revision application, both the parties have amicably settled the dispute. The parties have also executed consent terms dated 12th January 2018. The said consent terms are taken on record and marked "X" for identification.

4. In the consent terms it has been stated that the complainant has accepted Rs.4,50,000/- towards claims against the applicant-accused. It is also agreed between the parties that a sum of Rs.3 lakh deposited by the applicant before the Sessions Court, be allowed to be withdrawn by the applicant-accused. It is also stated that the parties have compounded the offence in accordance with the consent terms and a joint request is made by the applicant and respondent no.2 that the applicant may be acquitted of the offence under Section 138 of Negotiable Instruments Act.

5. The consent terms also stipulates in paragraph 5 that the applicant is the sole claimant and owner of Hindi feature film "Ek Hadsa" and respondent no.2 is having no claim over the said film of whatsoever nature and that he had surrendered all his rights and interests in respect to the said film in favour of applicant.

6. Learned counsel for applicant and respondent no.2 have submitted that in view of the settlement between both the parties, the impugned orders and judgments may be set aside and the applicant-accused may be acquitted. In view of the consent terms

executed between the parties, which are confirmed by the applicant and respondent no.2, who are present in Court, the parties can be allowed to compound the offence in accordance with Section 147 of Negotiable Instruments Act.

7. Hence, I pass following order :

ORDER

(i) In accordance with the consent terms dated 12th January 2018 executed between applicant-accused and respondent no.2 and Section 147 of Negotiable Instruments Act, the impugned judgment and order dated 4th December 2013 passed by 14th Metropolitan Magistrate's Court, at Girgaum, Mumbai in CC No.3452/SS/2005 convicting the applicant, as well as judgment and order dated 22nd February 2016 of the Sessions Court, Mumbai in Appeal No.2 of 2014 and Criminal Revision Application No.359 of 2014, are quashed and set aside and the applicant-accused is acquitted;

(ii) The applicant is permitted to withdraw Rs.3,00,000/- deposited by applicant before the Sessions Court pursuant to order dated 2nd April 2016 passed by this Court in Criminal Application No.170 of 2016;

(iii) Criminal Revision Application No.191 of 2016 is disposed of.

(PRAKASH D. NAIK, J.)