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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.217 OF 2018

WITH

CRIMINAL APPLICATION NO. 217 OF 2018

Mushtaq A. Solkar

..Applicant.

V/s.

Vishwanath B.Shinde & Anr.

..Respondents.

Ms.Afshan Goghari for the applicant.

Mrs.N.S.Jain, APP for the respondent.

Mr.Vishwanath B.Shinde – respondent No.2 - original complainant present.

CORAM: NITIN W.SAMBRE, J.

DATE : APRIL 20, 2018

PC.:-

Mr.Vishwanath B.Shinde holding Aadhar Card No.7031 4154 6203 is the complainant in C.C.No.527/SS/2013 initiated for the offence punishable under section 138 of the Negotiable Instruments Act, 1881 ('the N.I. Act' for short) in the Court of the learned Metropolitan Magistrate, 55th Court, Mazgoan, Mumbai. The learned Metropolitan Magistrate vide judgment and order

dated November 13, 2013 was pleased to convict the applicant-accused and directed him, to pay compensation of Rs.2 lakhs in addition to to pay Rs.5,000/- as additional compensation.

2. In Criminal Appeal No.528/2016, the learned Additional Sessions Judge, Greater Mumbai confirmed the aforesaid conviction by dismissing the appeal on January 9, 2018. As a consequence of which, the applicant was taken into custody.

3. The applicant, vide order dated April 13, 2018 in the criminal application was put to condition that he shall deposit the entire amount of compensation with interest in this Court, subject to which his sentence shall suspended and was admitted to bail.

4. The learned counsel for the applicant-accused, upon instructions, informs this Court that the amount of Rs.3 lakhs vide Demand Draft No.227053 dated April 17, 2018 drawn on the State Bank of India was deposited in this Court on the administrative side which was acknowledged by the Nazir on April 18, 2018. As such, the amount of Rs.3 lakhs is deposited in this Court.

5. Pursuant to the order of deposit, the complainant

Mr.Vishwanath B.Shinde is personally present in Court and has produced his Aadhar Card No.7031 4154 6203. Mrs.Jain, the learned APP interacted with the complainant who has consented for compounding the offence. He submits that he is ready to compound the offence, provided he is permitted to withdraw the amount of Rs.3 lakhs.

6. Since the complainant has given his consent on his own free will for compounding the offence subject to the condition that he shall be permitted to withdraw the amount of Rs.3 lakhs deposited in this Court, to which the applicant-accused who is personally present in the Court consents for through his advocate, the revision application, in my opinion, needs to be allowed.

7. The offence punishable under section 138 of the N.I. Act for which the accused was convicted in C.C. No.527/SS/2013 by the learned Metropolitan Magistrate vide judgment and order dated November 13, 2013 and confirmed in Criminal Appeal No. 527/SS/2013 by the learned Additional Sessions Judge, Greater Mumbai vide order dated January 1, 2018 is ordered to be compounded pursuant to the provisions of section 147 of the N.I.

Act.

8. The complainant, respondent No.1 herein, is permitted to withdraw the amount of Rs.3 lakhs, since the applicant-accused has consented for the same.

9. The criminal revision and the criminal application, as such stand disposed of in the above terms.

(NITIN W.SAMBRE, J.)