

CRIMINAL REVISION APPLICATION No. 267 OF 2017

WITH
CRIMINAL APPLICATION No. 262 OF 2017
IN
CRIMINAL REVISION APPLICATION No. 267 OF 2017

Maryambi Shabbir Harchirkar ...Applicant
Vs.
The State of Maharashtra and Anr. ...Respondents

Mr. for the Applicant
Mr. for Respondents .

CORAM : PRAKASH D. NAIK, J.
DATE : 11 JANUARY, 2018.

P.C. :-

1. Applicant was convicted for the offence punishable under section 138 of the Negotiable Instruments Act. Vide judgment and order dated 10th April, 2014 passed by the Learned Judicial Magistrate, First Class, Ratnagiri in SCC No. 606/2010.
2. The Applicant was sentenced to suffer simple imprisonment for six months and was further directed to pay fine of Rs.1,30,000/- and, in default, to suffer simple imprisonment for three months.
3. The Applicant, thereafter, preferred the appeal challenging the order of conviction before the Sessions Court at Ratnagiri which was numbered as Criminal Appeal No. 11 of 2014. The said appeal was dismissed vide

judgment and order dated 17th March, 2017. Hence the Applicant has preferred the present criminal revision application challenging the said judgment and order of conviction and has also preferred an application for suspension of sentence.

4. The Learned Advocate, representing both the parties, submits that during the pendency of this application, both the parties have arrived at amicable settlement. During the pendency of this criminal revision application, the Applicant/Accused had deposited an amount of Rs.1,30,000/- before the Sessions Court at Ratnagiri. The consent terms executed by both the parties were tendered during the course of hearing by the learned Advocate representing the parties. In the said consent terms, it is stated that the Applicant has deposited an amount of Rs.1,30,000/- in the Sessions Court in pursuant to the order dated 5th May, 2017 passed by this Court. The Applicant has no objection if Respondent No.2 is permitted to withdraw the said amount deposited in the trial court. The Applicant also agreed that Respondent No.2 be allowed to withdraw the amount of Rs.5,000/- deposited in the District Court at Ratnagiri on 26th May, 2014 and Rs. 2,800/- deposited in the Court of JMFC, Ratnagiri on 10th April, 2014. The Consent Terms are taken on record and marked 'X' for the purpose of identification.

5. The learned Advocate for the Applicant and Respondent No.2 submits that although in the letter dated 29th December, 2017, it is stated

that the Applicant/Accused has paid the entire amount of Rs.1,20,000/- with interest and nothing is due and payable from the Applicant. The said letter was obtained by way of abundant precaution. However, the amount which is deposited in the Sessions Court and the Trial Court as stated hereinabove, is the requisite amount, which will be withdrawn by the Complainant towards satisfaction of the Court. Respondent No.2 is represented by the Advocate Ms. Tazin A. Latif Shekasan, who is the manager of Respondent No.2 and has appointed as signatory authority. The said fact is mentioned in clause 3 of the Consent Terms. Both the parties are present in the Court and they have confirmed that there is a settlement.

6. In view of the settlement stated hereinabove, the Applicant submitted that the offence may be compounded and Respondent No.2 may be acquitted for the offence punishable under section 138 of the Negotiable Instruments Act by setting aside the order of conviction.

7. The letter authorizing Ms. Tazin A. Latif Shekasan to appear and settle the matter on behalf of Respondent No.2 is also tendered by the parties, which is taken on record and marked 'X-1' for identification.

8. In view of the settlement arrived between both the parties and considering the fact that the offence punishable under 138 of the Negotiable Instrument Act is a compoundable offence and in accordance with Section 147 of the Negotiable Instruments Act, the Applicant may be

acquitted from the said offence. The amount which is the subject matter of the transaction and which is deposited by the Applicant/Accused before the Court and the Applicant has no objection if the said amount with withdrawn by Respondent No.2- Original Complainant, I pass the following order:

ORDER

- (i) In view of the settlement arrived between the parties, the proceedings which are the subject matter of this case viz. offence punishable under section 138 of the Negotiable Instruments Act is a compounded and the impugned judgment and order dated 10th April, 2014 passed by the Learned Judicial Magistrate, First Class, Ratnagiri in SCC No. 606/2010 is set aside as well as the order dated 17th March, 2017 passed by the Sessions Court confirming the conviction is set aside and in accordance with Section 147 of the Negotiable Instruments Act, the Applicant is acquitted from the said offence.
- (ii) The Criminal Revision Application as well as the Criminal Application stand disposed of in the aforesaid terms.

[PRAKASH D. NAIK, J.]

