

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRI. REVISION APPLICATION NO.291 OF 2017
WITH
CRIMINAL APPLICATION NO.279 OF 2017
AND
CRIMINAL APPLICATION NO.280 OF 2017**

Bharat Chiman Parekh	.. Applicant
Vs.	
M/s.Abhishek Construction & Anr.	.. Respondents

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Mr.Shailesh I. Kantharia, Advocate for the Applicant.
Ms.Jyoti Fogla, Advocate for Respondent No.1.
Ms.Neeta S. Jain, APP for the Respondent - State.

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CORAM : PRAKASH D. NAIK, J.

DATED : JANUARY 24, 2018.

P.C. :

The applicant is convicted for an offence punishable under Section 138 of the Negotiable Instruments Act vide judgment and order dated 11th December, 2013, passed by the learned Metropolitan Magistrate 43rd Court, Borivali, Mumbai in CC No.2878/SS/2009.

2 The applicant has been sentenced to suffer simple imprisonment for six months. The applicant was also directed to

pay compensation of Rs.5,50,000/- to the complainant. The applicant preferred an appeal before the Sessions Court viz. Criminal Appeal No.119 of 2013, which has been dismissed vide judgment and order dated 11th April, 2017.

3 During the pendency of this revision application, parties have arrived at amicable settlement. They have executed Consent Terms. In view of settlement, the complainant has no objection for compounding the offence and acquitting the accused.

4 Revision Applicant has deposited an amount of Rs.1,50,000/- before the Sessions Court in Criminal Appeal No.119 of 2013. He has also deposited an amount of Rs.2,00,000/- in this Court. The balance amount of Rs.1,75,000/- has been handed over to the respondent - complainant by way of Demand Draft. Both the parties are present in the Court and they have confirmed that they have arrived at amicable settlement. In accordance with Section 147 of the Negotiable Instruments Act and considering the fact that parties have arrived at settlement, the offence can be compounded and the applicant - accused can be acquitted.

5 Consent Terms executed by both the parties are taken
on record and marked “X” for identification.

6 Hence, I pass the following order:

:: ORDER ::

- (i) The judgment and order dated 11th December, 2013 passed by Metropolitan Magistrate 43rd Court, Borivali, Mumbai in CC No.2878/SS/2009, which is confirmed by the Sessions Court in Appeal No.119 of 2013 vide judgment and order dated 11th April, 2017, is set aside on account of settlement between the parties and the offence is compounded;

- (ii) Respondent-complainant is permitted to withdraw the amount of Rs.1,50,000/- deposited by the revision applicant before the Court of Sessions in criminal Appeal No.119 of 2013. The respondent - complainant is also

permitted to withdraw the amount of Rs.2,00,000/- deposited by the revision applicant in this Court during the pendency of this revision application;

- (iii) The amount of Rs.1,75,000/- has been handed over to the complainant by Demand Draft issued at the instance of the revision applicant;
- (iv) Criminal Revision Application No.291 of 2017 stands disposed of;
- (v) Criminal Application Nos.279 and 280 of 2017, are disposed of accordingly.

(PRAKASH D. NAIK, J.)