

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.277 OF 2018
WITH
CRIMINAL APPLICATION NO.265 OF 2018
AND
CRIMINAL APPLICATION NO.266 OF 2018

1. M/s.Magron Finance Pvt.Ltd.
2, Everest Apartment, JPN Road, Versova,
Andheri (West), Mumbai.

2. Anil H. Joshi, Managing Director,
2, Everest Apartment, JPN Road, Versova,
Andheri (West), Mumbai.

Applicants

versus

1. M/s.Sree Gokulam Chit and Finance Co.
Pvt.Ltd., 206-207, Saideep N.G.Acharya Marg,
Chembr, Mmbai-400 071.

2. The State of Maharashtra

Respondents

Mr.U.V.Singh for applicants.
Mr.Y.M.Nakhwa, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 28th June 2018

PC :

1. Heard learned counsel for applicants. Issue notice to respondents returnable forthwith. Learned APP waives service on behalf of respondent no.2 State. Mr. Pawan Subhash Sarkale, representative of respondent no.1-complainant waives service. Heard finally with the consent of parties.

2. The applicants are convicted for offence under Section 138 of Negotiable Instruments Act in CC No.10090/SS/2006 by judgment and order dated 14th July 2010 by learned Metropolitan Magistrate, 59th Court, Kurla, Mumbai. The applicant no.2 was sentenced to suffer imprisonment for three months and the accused were directed to pay compensation of Rs.1,91,000/- to the complainant. Thereafter Criminal Appeal No.369 of 2010 preferred by the applicants was dismissed by Sessions Judge at Mumbai by judgment and order dated 24th April 2018. This Criminal Revision application has been preferred challenging the judgment of conviction.

3. During pendency of the revision application, the parties have arrived at amicable settlement. The representative of the complainant is present in the Court. The accused-applicant no.2 is also present. Both the parties have confirmed that there is settlement between them. The authorized representative of complainant Mr.Pawan Subhash Sarkale stated that he was authorized to file present complaint and he was examined as one of the witnesses at the instance of complainant of these proceedings. He also tenders the authority letter issued by the complainant-company authorizing him to appear in the proceedings and even to withdraw the case on behalf of company. In accordance with settlement the parties have signed consent terms dated 14th June 2018. The authorized representation of respondent no.1-complainant has signed on behalf of complainant. For the purpose of identification, he produced Aadhar Card bearing No.420277664214. The complainant is also identified by applicant no.2. The authority letter and consent terms are taken on record and marked "X" and "X-1" respectively.

4. In accordance with the consent terms, the parties have agreed to settle the dispute for a sum of Rs.1,35,000/-. The pay order in the sum of Rs.96,800/- is handed over to the representative of complainant who is present in the Court. The complainant's representative confirms the receipt of pay order of Rs.96,800/-. The applicants have deposited Rs.38,200/- before the Sessions Court in Criminal Appeal No.369 of 2010. It is agreed between the parties that the complainant be allowed to withdraw the said amount of Rs.38,200/-. The receipt of the deposit made before the Sessions Court is provided to the representative of complainant. In view of the settlement, the complainant has no objection for setting aside the judgment and order of conviction passed by the Courts below which are under challenge in this revision application. In the circumstances and in the light of Section 147 of Negotiable Instruments Act, the parties can be allowed to compound the offence. Taking into consideration the fact that parties have settled the dispute, the request of both the parties to allow the revision application and set aside the order of conviction deserves to be allowed. Hence, I pass following order :

ORDER

(i) In accordance with the consent terms executed by parties on 14th June 2018, the judgment and order in CC No.10090/SS/2006 dated 14th July 2010 passed by learned Metropolitan Magistrate, 59th Court, Kurla, Mumbai, and confirmed in Criminal Appeal No.369 of 2010 by Sessions Judge at Mumbai by judgment and order dated 24th April 2018, are set aside and applicants are acquitted of the offence under Section 138 of Negotiable Instruments Act;

- (ii) The respondent no.1-complainant is allowed to withdraw Rs.38,200/- deposited by applicants in Sessions Court in Criminal Appeal No.369 of 2010;
- (iii) Criminal Revision Application No.277 of 2018, Criminal Application No.265 of 2018 and Criminal Application No.266 of 2018 stand disposed of in above terms.

(PRAKASH D. NAIK, J.)

MST