

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

**CRI. REVISION APPLICATION NO.339 OF 2017
WITH
CRIMINAL APPLICATION NOS.311 & 312 OF 2017**

Devanand Bajaj

.. Applicant

Vs.

The State of Maharashtra & Anr.

.. Respondents

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Mr.Pratik Surti I/b. Mr.R.Sathyannarayanan, Advocate for the Applicant.

Mr.A.R. Patil, APP for the Respondent - State.

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CORAM : PRAKASH D. NAIK, J.

DATED : JUNE 29, 2018.

P.C. :

This revision application has been preferred challenging the judgment and order of conviction passed by the Court of learned Metropolitan Magistrate 14th Court, Girgaon, Mumbai. The applicant was convicted in C.C.No.2120/SS/2011 vide judgment and order dated 2nd November, 2015. The applicant was sentenced to suffer simple imprisonment for six months and directed to pay fine of Rs.9,24,873/-. Criminal Appeal No.1020 of 2015, preferred by the applicant challenging the said judgment was dismissed by the Sessions Court by order dated 29th March, 2017.

2 It is submitted that there were about three complaints filed by the respondent and his relations, which are subject matter of present Application and Criminal Application Nos.338 of 2017 and 340 of 2017. Applicant has been convicted for an offence punishable under Section 138 of the Negotiable Instruments Act, 1881.

3 It is submitted that the parties have arrived at amicable settlement. Consent Terms are tendered. The said Consent Terms are executed by the applicant accused and the complainant as well as the Constituted Attorney of the Complainant Mr.Pramod Kumar Agarwal, who is present in the Court. He has been identified through his Aadhar Card bearing No.592542261369. The complaints were filed through the said Constituted Attorney. He admitted the contents of the Consent Terms and confirmed that there is settlement between the parties. He also stated that in view of the Consent Terms, the order of the conviction in all the three Revision Application be set aside. In the Consent Terms dated 22nd June, 2018, it is stated that the entire payment towards claim of the complainant in all the three matters has been paid to the complainant. The Consent Terms are taken on record and marked “X” for identification.

4 In the Consent Terms, it is agreed that the accused shall pay the complainant a total sum of Rs.7,95,000/-, towards full and final settlement in respect of three complaints. The amount has been paid by accused to Shri Pramod Kumar Agarwal by fax orders issued in the name of Sohil Agarwal, Nikhil Agarwal and Meena Agarwal. The photocopies of pay orders are annexed to Consent Terms. It is further agreed that both the parties shall withdraw all allegations against each other and the complainant side shall have no further claim against accused.

5 It is also agreed that the amount deposited by the revision applicant in the Appellate Court may be allowed to be withdrawn by the revision applicant.

6 In view of the settlement arrived at between the parties, the request for setting aside order of conviction can be allowed.

7 Hence, I pass the following order:

:: ORDER ::

- (i) In view of the Consent Terms dated 22nd June, 2018, executed between the parties, the

judgment and order passed by the Metropolitan Magistrate 14th Court, Girgaon, Mumbai in C.C.No.1402120/SS/2011 as well as the judgment and order dated 29th March, 2017 passed by the Sessions Court in Criminal Appeal No.1020 of 2015, are set aside and the parties are allowed to compound the offence;

- (ii) The revision applicant is acquitted of the offence;
- (iii) The amount deposited by applicant before Appellate Court is allowed to be withdrawn by revision applicant;
- (iv) Criminal Revision Application is disposed of;
- (iv) In view of the disposal of the Criminal Revision Application, nothing survive in Criminal Application Nos.311 and 312 of 2017 and both are disposed of accordingly.

(PRAKASH D. NAIK, J.)