

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION No. 349 OF 2017
WITH
CRIMINAL APPLICATION No. 517 OF 2017
IN
CRIMINAL REVISION APPLICATION No. 349 OF 2017
WITH
CRIMINAL APPLICATION No. 5 OF 2018
IN
CRIMINAL REVISION APPLICATION No. 349 OF 2017

Harish Gulabbhai Desai	...Applicant
Vs.	
M/s. Scot Wines Ltd. and Anr.	...Respondents

Mr. Prachita P. Ware for Applicant
Mr. Kishor N. Bhatia for Respondent No.1
Mr. P.H. Gaikwad-Patil -APP for the State

CORAM : PRAKASH D. NAIK, J.
DATE : 16 JANUARY, 2018.

P.C. :-

1. The criminal revision application preferred by the Original Accused challenging the judgment and order dated 25th April, 2014 passed by the Court of Metropolitan Magistrate, 6th Court, Mazgaon, Mumbai, wherein the Applicant-Accused was convicted for an offence punishable under Section 138 of the Negotiable Instruments Act. The Accused was sentenced to undergo rigorous imprisonment for six months and to pay fine of Rs. 7,52,500/-. The Applicant and the other accused preferred an appeal

challenging the aforesaid judgment. The appeal was partly allowed and the co-accused was acquitted. However, the conviction against the present Applicant was confirmed vide judgment and order dated 9th March, 2017.

2. During the pendency of this revision application, the Applicant and the Original Complainant have settled the dispute. In view of the settlement, the parties have preferred the Criminal Application No. 5 of 2018 under the provisions of Section 147 of the Negotiable Instruments Act. The said application is preferred by both the parties. It is submitted that the Applicant-Accused has agreed to pay to Respondent No.1 / Original complainant total amount of Rs.10,00,000/- in full and final settlement of the matter. The Applicant-Accused has also handed over to Respondent No.1/Original Complainant three pay orders for an amount of Rs.6,50,000/-. The revision Applicant has also handed over the seven posted dated cheques of Rs.50,000/- each for total amount of Rs.3,50,0000/- . The revision Applicant has undertaken not to commit any default and agreed to honour the said cheques on the due dates. Both the parties have made a joint request, seeking permission to compound the offence and set aside the judgment and order dated 1st August, 2006 passed by the Metropolitan Magistrate, 6th Court, Mazgaon, Mumbai, the judgment and order dated 25th April, 2014 passed by the same Court and the judgment and order dated 9th March, 2017 passed by the Sessions

Court, Mumbai in Criminal Appeal No. 496/2014.

3. Both the parties are present in the Court and they have confirmed that they have arrived at an amicable settlement. The Original Complainant has no objection for setting aside the judgment and order of conviction and consented compounding the offence. The Consent Terms executed by the parties are also annexed to the Criminal Application No. 5 of 2018. Taking into consideration the aforesaid circumstances and invoking the provisions under section 147 of the Negotiable Instruments Act, the conviction of the accused-Applicant under Section 138 of the Negotiable Instruments Act, can be compounded by setting aside the judgment and order of conviction. Hence, I pass the following order.

ORDER :

(i) The judgment and order dated 1st August, 2006 passed by the Metropolitan Magistrate, 6th Court, Mazgaon, Mumbai, the judgment and order dated 25th April, 2014 passed by the same Court and the judgment and order dated 9th March, 2017 passed by the Sessions Court, Mumbai in Criminal Appeal No. 496/2014 are quashed and set aside in accordance with the consent terms executed between the Applicant and Respondent No.1/Original Complainant.

(ii) In view of compounding of offence, the

Applicant/Accused is acquitted of the offence punishable under Section 138 of the Negotiable Instruments Act.

(iii) The amount of Rs.75,250/- deposited by the Revision Applicant before the Metropolitan Magistrate Court, at Mazgaon is allowed to be withdrawn by the Revision Applicant. He is also permitted to withdraw the amount of Rs.10,000/- deposited towards bail amount.

(iv) Criminal Revision Application along with Criminal Applications stand disposed of.

[PRAKASH D. NAIK, J.]