

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

CRIMINAL REVISION APPLICATION NO.225 OF 2014

Sunil Sidramappa Yadgouda

.. Applicant

Vs.

C.G.Marketing Pvt. Ltd. & Anr.

.. Respondents

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Mr.Padmanabh D. Pite, Advocate for the Applicant.

Mr.S.R. Nargolkar i/b. Ms.Meenakshi Sakhare, Advocate for Respondent No.1.

Mr.P.H. Gaikwad - Patil, APP for the Respondent - State.

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CORAM : PRAKASH D. NAIK, J.

DATED : JANUARY 15, 2018.

P.C. :

This Revision Application is preferred against the judgment and order dated 12th October, 2009, passed by the learned J.M.F.C. 21st Court, Pune in CC No.47524 of 2006.

2 The revision applicant - accused has been convicted for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881. The accused is sentenced to suffer simple imprisonment for one year and to pay fine of Rs.20,000/- and in default of payment of fine, the accused was to suffer simple imprisonment for three months. The applicant - accused was also

directed to pay Rs.30,00,000/- towards compensation to the complainant. The said order was challenged by the applicant before the Sessions Court, Pune vide Criminal Appeal No.371 of 2009. The said Appeal has been dismissed by judgment and order dated 23rd June, 2014. In pursuant to that, the present Revision Application preferred before this Court. The sentence imposed upon the applicant has been suspended vide order dated 7th July, 2014 and the Revision Application is admitted.

3 During the pendency of this Revision Application, applicant and respondent nos.1 and 2 has amicably settled the dispute. Consent Terms executed by both the parties are tendered before the Court during the course of hearing of this application. The undertaking in the Consent Terms is accepted. Consent Terms are taken on record and marked “X” for identification. Learned counsel for respondent no.1 also submitted that the complainant - accused no.1 had filed a suit before the competent Court which has been withdrawn on account of compromise between the parties. As per the Consent Terms, both the parties had agreed that respondent no.1-complainant may be permitted to withdraw the amount of Rs.5,00,000/- deposited by the revision applicant in criminal

Appeal No.371 of 2009, which has been kept in Fixed Deposit as per the order passed by the Appellate Court.

4 Applicant and accused no.1 are present in Court. Both of them have confirmed that there is a settlement between them. In view of the settlement and in accordance with the Consent Terms executed between both the parties, complainant has no objection for compounding the offence resultantly, acquitting the revision applicant - accused.

5 In view of the Consent Terms executed by the parties, the offence under Section 138 of the Negotiable Instruments Act, 1881, can be compounded in accordance with Section 147 of the Negotiable Instruments Act, 1881. Consequently, the impugned judgment and order passed by the trial Court convicting the applicant, which is further confirmed by the Sessions Court by dismissing the Appeal are required to be set aside and the applicant - accused has to be acquitted.

6 Hence, I pass the following order:

:: ORDER ::

- (i) The impugned judgment and order 12th October, 2009, passed by the learned J.M.F.C. 21st Court, Pune in CC No.47524 of 2006 convicting the revision applicant for an offence punishable under Section 138 of the Negotiable Instruments Act, 1881, sentencing him to imprisonment and directing him to pay compensation which is confirmed by the Sessions Court vide judgment and order dated 23rd June, 2017 by i.e. Sessions Court, Pune vide Criminal Appeal No.371 of 2009 are hereby quashed and set aside and in accordance with Section 147 of the Negotiable Instruments Act, the revision applicant is acquitted of the offence;
- (ii) Respondent no.1 is permitted unconditionally withdraw the amount of Rs.5,00,000/- deposited by the revision applicant in Criminal Appeal No.371 of 2009 before the Court of Sessions at Pune along with accrued interest thereon;

(iii) Revision Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)