

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

**CRIMINAL APPLICATION NO. 307 OF 2018
WITH
CRIMINAL APPLICATION NO. 308 OF 2018
WITH
CRIMINAL APPLICATION NO. 309 OF 2018
WITH
CRIMINAL REVISION APPLICATION (ST) NO. 325 OF 2018**

Devram Babulal Sheevajiyani

... Applicant

Vs.

Kishor Uttam Kamble & Anr.

... Respondents

...

Mr. S.A. Tarale for the applicant.

Mrs. N.S. Jain, APP for the Respondent-State.

...

CORAM : PRAKASH D. NAIK, J.

DATE : 05th JULY, 2018.

P.C.

1. This revision application has been preferred challenging the Judgment and Order dated 1st August, 2016 passed by Judicial Magistrate First Class, Pimpri, Pune in SCC No. 1632/2016 (Old SCC No. 13785/2014). The revision applicant was convicted for the offence punishable under Section 138 of Negotiable Instruments Act, 1881 and sentenced to suffer simple imprisonment for one month and to pay a fine of Rs.33,000/-. The

appeal preferred by the revision applicant before the Sessions Court has been dismissed by Judgment and Order dated 16th November, 2017 and sentence of trial Court has been confirmed.

2. It is submitted that the revision applicant is in custody since 7th June, 2018. It is submitted that during pendency of these proceedings, the parties have settled the dispute. The affidavit executed by the respondent-complainant is tendered. The same is taken on record and marked "X" for identification. In the affidavit it is stated that the dispute has been settled between both the parties and the complainant has received the amount from the revision-applicant. There is no recovery or dues from the revision applicant. He has no grievance against the revision-applicant. It is also stated that in view of the settlement, appropriate orders be passed by setting aside the impugned judgment and order. The complainant is present in the Court and he has confirmed the settlement and the contents of the affidavit. The identity of the complainant is verified through Aadhar Card and Driving License.

2. In the circumstances, more particularly, the parties have settled the dispute and the amount has been paid to the complainant, there is no impediment in setting aside the order of conviction by allowing the parties to compound the offence.

3. The Criminal Application No.307 of 2018 which is seeking condonation of delay is allowed.
4. Criminal Revision Application No.325 of 2018 is allowed. The impugned Judgment and Order dated 1st August, 2016 passed by Judicial Magistrate First Class in SCC No. 1632/2016 (Old SCC No. 13785/2014) as well as the Judgment and Order dated 16th November, 2017 passed by the Sessions Court, Pune in Criminal Appeal No. 413 of 2016 is set aside.
5. On account of settlement between the parties, the revision applicant stands acquitted and he may be set at liberty forthwith.
6. In case, the revision applicant has deposited any amount in the trial Court or before the Appellate Court, the same shall be allowed to be withdrawn by the revision-applicant.
7. All Criminal Applications stand disposed of.

(PRAKASH D. NAIK, J.)