

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

**CRIMINAL REVISION APPLICATION NO.375 OF 2017
WITH
CRIMINAL APPLICATION NO.353 OF 2017**

Jiya Ahmad Abdul Rajjak Mulla

.. Applicant

Versus

1. The State of Maharashtra & Anr.

.. Respondents

Ms.Saili Naresh Dhuru h/f Mr.Kuldeep S. Patil, Advocate for the applicant.

Mr.Meet Sawant i/b Rajesh Patil, Advocate for the Respondent No.2.

Mr.PH.Gaikwad-Patil, APP for the Respondent State.

CORAM : PRAKASH D. NAIK, J.

DATED : 08 FEBRUARY, 2018

P.C. :

1. The revision applicant is convicted for an offence under Section 138 of the Negotiable Instruments Act vide judgment and order dated 9th June 2014 passed by the learned Judicial Magistrate, First Class, Ratnagiri in S.C.C.No.536 of 2013. The applicant was sentenced to suffer simple imprisonment for one year. He was directed to pay compensation to complainant to the tune of Rs.3,00,000/-.

2. The applicant preferred an appeal against the judgment and order dated 9th June 2014, which has been dismissed by the learned Sessions Judge, Ratnagiri vide judgment and order dated 28th June 2017 passed in Criminal Appeal No.18 of 2014.

3. The parties have arrived at the amicable settlement. The Consent Terms were tendered in the Court on 3rd August 2017. Both the parties were present on that day and have confirmed the Consent Terms. The Consent Terms signed between the parties and their Advocates sets out a schedule of payment of balance amount of Rs.1,50,000/-. The complainant had agreed to settle the matter on accepting the amount of Rs.3,00,000/- in full and final settlement. Out of the said amount, a sum of Rs.1,50,000/- was already paid and the remaining amount was to be paid in six installments. The said fact is recorded in the order dated 3rd August 2017.

4. It is submitted by both the parties that the entire balance amount of Rs.1,50,000/- is also paid to the complainant.

5. The complainant has no objection for setting aside the judgment and order of conviction and for compounding the offence under Section 138 of the Negotiable Instruments Act for which revision applicant has been convicted.

6. Considering the fact that the parties have arrived at amicable settlement and in accordance with Section 147 of the Negotiable Instruments Act, which empowers the Court to

compound the offence under Section 138 of the Negotiable Instruments Act, the prayer for compounding and setting aside the conviction deserves to be allowed in consonance with the Consent Terms agreed between both the parties. Hence, I pass the following order.

ORDER

- (i) Criminal Revision Application No.375 of 2017 is allowed;
- (ii) In accordance with Section 147 of the Negotiable Instruments Act, the compounding of the offence under Section 138 of the Negotiable Instruments Act is allowed;
- (iii) Impugned judgment and order dated 9th June 2014 passed by the learned Judicial Magistrate, First Class, Ratnagiri in S.C.C.No.536 of 2013 convicting the applicant for an offence under Section 138 of the Negotiable Instruments Act and sentencing him to suffer simple imprisonment and also directing him to pay compensation as well as the impugned judgment and order dated 28th June 2017 passed by the learned Sessions Judge, Ratnagiri in Criminal Appeal No.18 of 2014 is set aside;
- (iv) Revision Applicant is acquitted of the offence under Section 138 of the Negotiable Instruments Act;
- (v) Criminal Revision Application No.375 of 2017 as well as Criminal Application No.353 of 2017 stand disposed of.

(PRAKASH D. NAIK, J.)