

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.452 OF 2017
WITH
CRIMINAL APPLICATION NO.368 OF 2018
AND
CRIMINAL APPLICATION NO.438 OF 2017
IN
CRIMINAL REVISION APPLICATION NO.452 OG 2017

Ajay Shendge	Applicant
versus	
The State of Maharashtra and another	Respondents

Ms.Sonali Bhosale for applicant.
Mr.Prem Dutt Mishra for respondent no.2.
Mrs.N.S.Jain, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 1st August 2018

PC :

1. The applicant is convicted for offence under Section 138 of Negotiable Instruments Act. He is sentenced to suffer rigorous imprisonment for six months and to pay fine of Rs.7,60,000/-. It was further directed that after realization of the fine amount and completion of the appeal period, Rs.7,50,000/- be paid to the complainant towards compensation under section 357(1) of Code of Criminal Procedure, 1973.

2. It is submitted by both learned counsel representing both the parties that the matter has been settled by the revision applicant and the respondent-complainant. The consent terms executed by both

the parties are tendered. It is submitted that the dispute has been settled for Rs.1,00,000/- as full and final settlement. The complainant has agreed for the settlement and he has no objection for setting aside the judgment and order of conviction. In paragraph 3 of the consent terms it is stated that respondent no.2 has agreed to accept Rs.1,00,000/- towards full and final settlement of the case. It is further agreed that the amount so far deposited by the revision applicant be allowed to be withdraw by the revision applicant/accused. It is submitted that the applicant has deposited Rs.2,64,000/- in this Court and Rs.1,00,000/- before Sessions Court. The consent terms are taken on record and marked "X" for identification.

3. The complainant and the accused are present in the Court. The complainant has confirmed the contents of the consent terms. He is identified by learned counsel representing him. In the circumstances, there is no impediment in allowing the prayer for compounding and setting aside the judgment and order of conviction. Hence, I pass following order :

ORDER

- (i) Criminal Revision Application No.452 of 2017 is allowed;
- (ii) The impugned judgment and order dated 20th March 2010 passed by 63rd Court, Andheri, Mumbai in Criminal Case No.4806/SS/2005 convicting the applicant for offence under section 138 of Negotiable Instruments Act, as well as judgment and order dated 31st July 2017 passed by the Additional Sessions Judge, Greater Mumbai in Criminal Appeal No.183 of 2010 confirming the order of conviction, is set aside;

- (iii) On account of compounding the offence in accordance with Section 147 of Negotiable Instruments Act, the revision applicant is acquitted;
- (iv) The revision applicant is permitted to withdraw Rs.2,64,000/- deposited in this Court as well as Rs.1,00,000/- deposited in Sessions Court in Criminal Appeal No.183 of 2010;
- (v) Criminal Revision Application No.452 of 2017, Criminal Application No.368 of 2018 and Criminal Application No.438 of 2017 stand disposed off.

(PRAKASH D. NAIK, J.)

MST