

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

**CRI. REVISION APPLICATION NO.421 OF 2017
WITH
CRIMINAL APPLICATION NO.397 OF 2017**

Rafiq Sikandar Satti

.. Applicant

Vs.

The State of Maharashtra & Anr.

.. Respondents

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Mr.Rafiq Sikandar Satti, Applicant present in person.

Mr.P.H. Gaikwad, APP for the Respondent – State.

Mr.P.D. Pise, Advocate for Respondent No.2.

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CORAM : PRAKASH D. NAIK, J.

DATED : JANUARY 15, 2018.

P.C. :

Applicant has been convicted for an offence punishable under Section 138 of the Negotiable Instruments Act, 1881, vide judgment and order dated 29th January, 2010, passed by the learned Judicial Magistrate First Class Miraj in S.C.C. No.1393 of 2006. The applicant was sentenced to suffer rigorous imprisonment for two months and to pay fine of Rs.75,000/- and in default of payment of fine, to suffer further simple imprisonment for one month. The applicant, thereafter, preferred an Appeal before the Sessions Court which was dismissed vide judgment and order dated 5th June, 2017, passed by the Special Judge and Additional Sessions Judge – 2, Sangli.

2 During the pendency of this Revision Application, parties have amicably settled the dispute. Consent Terms signed by both the parties were tendered before the Court. Applicant and respondent no.2 are present before the Court. As per the Consent Terms, on account of amicable settlement, the joint prayer is made by both the parties that the judgment of conviction may be set aside. It is also stated that the applicant has paid a sum of Rs.45,000/- on execution of Consent Terms by way of cash to respondent no.2. It is further stated that the applicant has deposited an amount of Rs.30,000/- before the Sessions Court in Criminal Appeal No.78 of 2010. It is agreed between both the parties that respondent no.2 may withdraw the said amount with accrued interest, if any.

3 In view of the settlement, learned advocate for the applicant submits that the impugned judgment may be set aside and the applicant may be acquitted. The complainant has no objection for setting aside the judgment and order of conviction. In view of Section 147 of the Negotiable Instruments Act, 1881, the offence under Section 138 of N.I. Act can be compounded on account of amicable settlement between both the parties. Consent Terms executed by both the parties are taken on record and marked "X" for identification.

4 Hence, I pass the following order:

:: ORDER ::

- (i) In view of Consent Terms executed between the applicant and respondent no.2, the judgment and order dated 29th January, 2010, passed by the J.M.F.C., Miraj in S.C.C. No. No.1393 of 2006, convicting the applicant for an offence punishable under Section 138 of the Negotiable Instruments Act, 1881, and sentencing him to imprisonment and the judgment and order dated 5th June, 2017 passed by the Sessions Court in Criminal Appeal No.78 of 2010, confirming the judgment passed by the trial Court are set aside and the applicant is acquitted of the charges;
- (ii) Respondent no.2 is allowed to withdraw an amount of Rs.30,000/- deposited before the Sessions Court in Criminal Appeal No.78 of 2010;

- (iii) Revision Application stands disposed of.
- (iv) Criminal Application No.397 of 2017 stands disposed of accordingly.

(PRAKASH D. NAIK, J.)