

1. This is an application filed by original complainant seeking correction in the name of respondent no.2 in the proceedings which are subject matter of Criminal Revision Application No.538 of 2010. It is submitted that the applicant is named as Dhiren Thakkar in the proceedings arising out of Criminal Case No.2360/SS/2008. The revision applicant has been convicted for offence u/s 138 of Negotiable Instruments Act, which order was confirmed by the Sessions Court by dismissing the appeal. The revision applicant has, therefore, filed Criminal Revision Application No.538 of 2010. This Court vide order dated 29th August 2010 permitted the complainant to withdraw a sum of Rs.1,82,000/- on submitting an undertaking to

reimburse the said amount, if the revision applicant succeeds in the revision application. This Court vide order dated 28th October 2015 has also allowed the complainant/respondent no.2 in Revision Application No.538 of 2010 to withdraw the amount of Rs.1,27,000/- deposited by the revision applicant.

2. It is submitted that for the purpose of withdrawing the said amount, the applicant was required to furnish documents. The applicant made an application with registry for withdrawal of amount with documents. However, the registry had raised an objection with regard to discrepancy in his name. It is submitted that the name of the applicant in all the requisite documents is shown as Dhirendra Kumar Thakkar. The applicant has annexed copy of PAN card wherein photograph as well as name of the applicant is shown as Dhirendra Kumar Thakkar. The applicant has also filed an affidavit dated 21st June 2017 stating that his name is shown as Dhiren Thakkar in the criminal proceedings, which are subject matter of this application, whereas in documents he is named as Dhirendra Kumar Thakkar. The applicant has annexed copy of telephone bill, ration card, voter's card as well as Aadhar card. The name of applicant is shown as Dhirendra Kumar Thakkar. The applicant is present in the Court. The revision applicant is also present in the Court. The revision applicant has confirmed that the applicant who is present in the Court, is the same person who has represented as complainant in the proceedings before the Trial Court. The revision applicant has also filed an affidavit stating that he is ready to identify the applicant if he remains present before the Court. It is also stated that he knows the applicant personally as Mr.Dhirendra Thakkar. However, as far as genuineness of the

documents submitted by him, the revision applicant has nothing to say and the onus to prove the same lies on him. The fact remains that the revision applicant has identified the applicant in this Court as the same person who represented as complainant in the Trial Court and Sessions Court. Affidavit filed by revision applicant dated 21st February 2018 is taken on record and marked "X" for identification. In the light of aforesaid circumstances and the documents annexed to the application, I pass following order :

ORDER

(i) Criminal Application No.491 of 2016 is allowed in terms of prayer clause (a).

(PRAKASH D. NAIK, J.)

MST