

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.246 OF 2017

Shivaji Bandu Mohite, Age 50 years,
Occ.Agriculture, R/o.Nillewadi,
Tal.Hathkanangle, Dist. Kolhapur

Applicant

versus

1. The State of Maharashtra

2. Kalpavruksha Nagari Sahakari Pat
Sanstha, Peth Vadgaon, Tal.Hathkanangle,
Dist.Kolhapur.

Respondents

Mr.Tejas Hilage for applicant.

Mr.Dewendra Pawar for respondent no.2.

Ms.R.M.Gadhvi, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 7th February 2018

PC :

1. The applicant was prosecuted for offence under Section 138 of Negotiable Instruments Act. By judgment and order dated 6th December 2007 passed by learned Judicial Magistrate, First Class, Vadgaon in Summary Criminal Case No.1228 of 2005, the applicant was convicted for the said offence and he was sentenced to suffer simple imprisonment for three months. The applicant was also directed to pay compensation of Rs.7,41,400/-.

2. The applicant thereafter filed an appeal viz Criminal Appeal No.100 of 2008 before the Sessions Court at Kolhapur. The said appeal was dismissed for default vide order dated 19th March 2016.

3. Learned advocate for the applicant submits that during pendency of the appeal, the parties have arrived at settlement and hence the applicant was not present on the date of hearing of the said appeal, which had resulted in dismissal of said appeal for want of prosecution. It is submitted that the parties have arrived at amicable settlement and entire amount of Rs.7,41,400/- has been paid to the complainant. Both the parties have also executed consent terms which are tendered before the Court. The consent terms dated 7th February 2018 are taken on record and marked "X" for identification. The consent terms are signed by both the parties and their respective advocates.

4. In accordance with the consent terms, the matter has been settled by both the parties. Both parties are present in the Court and they have confirmed the settlement. Representative of respondent no.2 who has been authorized to give consent in the present proceeding, is present in the Court and he has confirmed the consent terms and stated that the complainant has no objection for setting aside the impugned judgment and order of conviction and for compounding the offence.

5. In view of the amicable settlement arrived at between both the parties, as stipulated in the consent terms dated 7th February 2018, and in accordance with Section 147 of Negotiable Instruments Act, the parties can be allowed to compound the offence.

6. Hence, I pass following order :

ORDER

(i) The impugned judgment and order dated 6th December 2007 passed by Judicial Magistrate, First Class, Vadgaon in Summary Criminal Case No.1228 of 2005 convicting the applicant for offence under Section 138 of Negotiable Instruments Act and sentencing him to imprisonment as well as payment of compensation, along with order dated 19th March 2016 passed by learned Additional Sessions Judge, Kolhapur in Criminal Appeal No.100 of 2008, are quashed and set aside in accordance with consent terms dated 7th February 2018 executed by the parties. The offence is compounded and the applicant is acquitted of the said offence;

(ii) Criminal Appeal No.100 of 2008 filed before the Sessions Court, Kolhapur is rendered infructuous;

(iii) Criminal Revision Application No.246 of 2017 is disposed off in above terms.

(PRAKASH D. NAIK, J.)

MST