

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

**CRIMINAL APPLICATION NO. 444 OF 2017
WITH
CRIMINAL REVISION APPLICATION NO. 463 OF 2017**

Vinayak Dhondiram Gavali ... Applicant
Vs.
Arjun Shivaji Pawar & Anr. ... Respondents

...

Mr. Dilip B. Shinde for the applicant.
Mr. M.B. Deshmukh for the Respondent No.1.
Mr. Y.M. Nakhwa, APP for the Respondent-State.

...
CORAM : PRAKASH D. NAIK, J.
DATE : 13th JULY, 2018.

P.C.

1. The revision applicant was convicted for an offence punishable under Section 138 of the Negotiable Instruments Act vide order dated 16th March, 2011 passed by the Judicial Magistrate First Class, Vita Dist. Sangli in Summary Criminal Case No. 542 of 2010. The applicant was sentenced to undergo imprisonment of four months and further directed to pay compensation of Rs.1,09,000/-. Thereafter, the applicant preferred an appeal before the Sessions Court which was dismissed vide order dated 2nd August, 2017.

2. It is submitted by both the parties that they have arrived at amicable settlement. The consent terms executed by both the parties are tendered. The same is taken on record and marked "X" for identification. The complainant and accused are present in the Court. They are identified by their respective advocate. They have confirmed the contents of the consent terms. In accordance with the consent terms the matter has been settled. The compensation amount of Rs.1,09,000/- awarded by the trial Court, out of which the applicant had deposited an amount of Rs.70,000/- before the Sessions Court, Sangli during the pendency of Criminal Appeal No. 129 of 2011. It is further stated that an amount of Rs.39,000/- has already been given by the revision applicant to the respondent-complainant. The complainant has no objection for setting aside the Judgment and Order of conviction and compounding the offence. It is also agreed that amount of Rs.70,000/- deposited by the revision applicant in the Sessions Court is allowed to be withdrawn by the respondent-complainant.

4. Taking into consideration the aforesaid aspect and in the light of Section 147 of the Negotiable Instruments Act, the parties can be allowed to compound the offence and the Judgment and Order of conviction can be set aside in accordance with the

consent terms executed between the parties. Hence, I pass the following order.

ORDER

(i) In accordance with the consent terms, the Judgment and Order dated 16th March, 2011 passed by the Judicial Magistrate First Class, Vita in Summary Criminal Case No.542 of 2010, convicting the applicant for the offence punishable under Section 138 of the Negotiable Instruments Act as well as Judgment and Order dated 2nd August, 2017 passed by the learned Special Judge and Additional Sessions Judge-2, Sangli, dismissing the Criminal Appeal No. 129 of 2011 are hereby set aside. The impugned offence is allowed to be compounded;

(ii) The applicant stands acquitted for the said offence;

(iii) The respondent-complainant is permitted to withdraw the amount of Rs.70,000/- alongwith accrued interest, if any, deposited by the revision applicant in the Appellate Court in Criminal Appeal No. 129 of 2011.

(iv) Criminal Application No. 444 of 2017 and Criminal Revision Application No. 463 of 2017 stand disposed of.

Sachidanand
Kuttan Nair

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by Sachidanand
Kuttan Nair
Date: 2018.07.19
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(PRAKASH D. NAIK, J.)