

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION (STAMP) NO.601 OF 2017
WITH
CRIMINAL APPLICATION NO.561 OF 2017

Abhijeet Saraswat	Applicant
versus	
The State of Maharashtra and another	Respondents

Shradha Worlikar for applicant.
Mr.Ghanshyam Tripathi for respondent no.2.
Mrs.N.S.Jain, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 15th June 2018

PC :

1. The applicant is convicted for offence u/s 138 of Negotiable Instruments Act by learned Metropolitan Magistrate, 14th Court, Girgaum, Mumbai vide judgment and order dated 16th December 2013 passed in CC No.663/SS/2007. The applicant was sentenced to suffer simple imprisonment for six months and directed to pay compensation of Rs.50,00,000/-. The applicant thereafter preferred Criminal Appeal No.38 of 2014 before the Sessions Court for Greater Bombay, which was dismissed vide judgment and order 18th September 2014.

2. Learned counsel representing both the parties submitted that there is an amicable settlement between the applicant and the respondent no.2-complainant. They have executed a memorandum of understanding which has been annexed to the revision application as Exhibit-D, at page 41. In the said memorandum of understanding

it is stated that it is agreed between both the parties that the applicant-accused shall pay Rs.40 lakh to the complainant in full and final settlement of all the claims. It is submitted that the entire payment of Rs.40 lakh has already been paid to the complainant. The said fact is confirmed by the complainant who is present in the Court. It is also stated that in view of the settlement, the complainant has no objection for setting aside the orders of conviction passed by Courts below. The consent terms executed by both the parties dated 15th June 2018 is tendered in the Court. The same is taken on record and marked "X" for identification. The accused and complainant both are present in the Court and have stated that there is settlement between them and the reliefs sought in this revision application be granted.

3. Taking into consideration the aforesaid facts and in the light of Section 147 of Negotiable Instruments Act, the parties can be allowed to compound the offence u/s 138 of Negotiable Instruments Act. It is noted that the amount, as agreed, towards full and final settlement, has already been parted to the complainant by the applicant and that the complainant-respondent has consented for setting aside the judgment and order of conviction. Hence, I pass following order :

ORDER

- (i) Criminal Revision Application (Stamp) No.601 of 2017 is allowed;
- (ii) The offence u/s 138 of Negotiable Instruments Act, which is subject matter of these proceedings, is allowed to be compounded and stands compounded;

- (iii) The judgment and order passed by learned Metropolitan Magistrate, 14th Court, Girgaum, Mumbai vide judgment and order dated 16th December 2013 passed in CC No.663/SS/2007 convicting the applicant, and the judgment and order in Criminal Appeal No.38 of 2014 passed by the Sessions Court for Greater Bombay vide judgment and order 18th September 2014, are quashed and set aside and the applicant-accused is acquitted;
- (iv) Criminal Revision Application (Stamp) No.601 of 2017 and Criminal Application No.561 of 2017 stand disposed off.

(PRAKASH D. NAIK, J.)

MST