

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

CRI. REVISION APPLICATION NO.641 OF 2017

Barmhaprakash Bhagatram Khatri	.. Applicant
Vs.	
Kiran Gurubacchan Khurana & Anr.	.. Respondents

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S.S. Kadtone i/b. Mr.Kuldeep U. Nikam, Advocate for the Applicant.
Mr.Sumit V. Khaire, Advocate for Respondent No.1.
Mr.S.S. Pednekar, APP for the Respondent No.2 - State.

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CORAM : PRAKASH D. NAIK, J.

DATED : FEBRUARY 9, 2018.

P.C. :

The applicant is convicted for an offence punishable under Section 138 of the Negotiable Instruments Act, 1881, vide judgment and order dated 17th January, 2014, passed by the J.M.F.C. Court No.6, Baramati in S.C.C.No.973 of 2007. The applicant-accused is sentenced to suffer simple imprisonment of six months and directed to pay compensation of Rs.12,56,640/- to the complainant.

2 Applicant thereafter preferred an Appeal viz. Criminal Appeal No.40 of 2014. The said Appeal was dismissed vide

judgment and order dated 13th December, 2017, passed by the Additional Sessions Judge, Baramati.

3 The applicant, thereafter, preferred this Revision Application. This application has been admitted vide order dated 19th December, 2017. Applicant had also preferred an application for suspension of sentence which has been allowed by order dated 19th December, 2017. As condition precedent for suspension of sentence, the applicant was directed to deposit Rs.10,00,000/- in the Registry of the trial Court within a period of six weeks from the actual release from jail.

4 However, during the pendency of this Revision Application, parties have settled the dispute. Consent Terms executed and signed by both the parties and their respective advocates is tendered before the Court. Both the parties are present in the Court and they have confirmed the contents of the Consent Terms and has stated that there is amicable settlement between both the parties. The Consent Terms are taken on record and marked “X” for identification.

5 It is stated in the Consent Terms that the revision applicant has already paid a sum of Rs.50,000/- by depositing the amount in the account of wife of respondent no.1. The balance of

Rs.9,00,000/- has been paid by way of Demand Draft. The details of which are mentioned in the Consent Terms. It is also agreed that the amount of Rs.1,00,000/- which has been deposited by the revision applicant before the trial Court during the pendency of the Appeal will be permitted to be withdrawn by the complainant.

6 It is submitted by both the parties that in view of the settlement between the parties, the offence under section 138 of the Negotiable Instruments Act, 1881, for which the applicant has been convicted may be compounded and the applicant be acquitted of the said offence. In consonance with Section 147 of the Negotiable Instruments Act and in view of the Consent Terms executed by both the parties, they can be allowed to compound the said offence.

7 Hence, I pass the following order:

:: ORDER ::

- (i) In accordance with Consent Terms dated 9th February, 2018, executed between the applicant and the respondent-complainant they are allowed to compound the offence punishable

under Section 138 of the Negotiable Instruments Act, 1881, and the impugned judgment and order dated 17th January, 2014, passed by the J.M.F.C. Court No.6 Baramati in S.C.C. No.973 of 2007, as well as judgment and order dated 13th December, 2017, passed by the Additional Sessions Judge, Baramati in Criminal Appeal No.40 of 2014, is set aside and the revision applicant is acquitted of the offence punishable under Section 138 of the Negotiable Instruments act, 1881;

- (ii) In view of this order, the condition to deposit the amount of Rs.10,00,000/-, as directed by order dated 19th December, 2017, passed in Criminal Application no.635 of 2017, does not survive;
- (iii) Criminal Revision Application no.641 of 2017 stands disposed of .

(PRAKASH D. NAIK, J.)