

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 242 OF 2009

Mrs. C.P. Vimla Prabhakar Naidu
Age 56 years, Occ. Household
R/o. House No. 239/5, Jyoti Nagar
New Osmanpura, Aurangabad

...Petitioner
(Ori. Accused)

Versus

1. The State of Maharashtra
Through Public Prosecutor
having its office in High Court
premises Jalna Road,
Aurangabad

2. Pramod s/o Purushottamdas Mehta
Age 40 years, Occ. Business,
partner, Om Marg Darshak
A registered partnership firm,
R/o. 19, Radhamohan Colony,
Khokadpura, Aurangabad

(Ori. Complainant)
...Respondents

.....
Mr. D.R. Bhadekar, advocate for the applicant
Mr. B.V. Virdhe, A.P.P. for respondent No.1
Mr. L. D. Vakil, advocate for respondent No.2
.....

CORAM : V. K. JADHAV, J.
DATED : 21st JANUARY, 2019

ORAL JUDGMENT:-

1. Heard learned counsel for the applicant, learned counsel for respondent No.2 and also learned A.P.P. for the respondent-State.

2. Being aggrieved by the judgment and order of conviction passed by the J.M.F.C. Court No.5, Aurangabad dated 17.03.2006 in

S.C.C. No. 2294 of 1997 under Section 138 of Negotiable Instruments Act and sentencing thereby to suffer simple imprisonment for one month and to pay fine of Rs.5,000/- and further the said judgment and order is confirmed by the Ad-hoc Additional Sessions Judge, Aurangabad by order dated 01.09.2009 in criminal appeal No. 50 of 2006 by dismissing the appeal. Thus, the applicant-original accused has preferred this criminal revision application.

3. The applicant accused, who is a woman, has issued four cheques for the total amount of Rs.3,35,570/-. The complainant has filed four separate cases and in all the cases, except the case under this revision, the learned 3rd Additional Sessions Judge, Aurangabad has modified the sentence and sentenced to pay fine only by further maintaining the order regarding compensation. In Criminal revision application Nos. 51 of 2005, 52 of 2005 and 53 of 2005 since the fine amount is also part of sentence, this court has set aside the order of compensation and raised the fine amount in all three cases which covers the amount of three cheques and directing further to pay compensation out of the fine amount to the complainant.

4. In the instant case, the learned Judge of the trial court has sentenced the applicant-accused to suffer S.I. for one month and to pay fine of Rs.5000/-. So far as the total amount of Rs.3,35,570/- is

concerned, in the aforesaid three cases, the cheque amount to the extent of Rs.3,10,000/- has been covered. So far as the remaining amount of Rs.25,570/- is concerned, the applicant being woman, I am inclined to set aside the order of imprisonment of one month and instead of that sentence her to pay fine of Rs.30,000/- and out of which Rs.25,000/- as compensation to the complainant. Thus, by way of that, the entire amount under four cheques has been covered. Learned counsel for the respective parties, on instructions, also accept the same. Hence, the following order:-

O R D E R

- I. Criminal revision application is partly allowed.
- II. The judgment and order of conviction dated 01.09.2009 passed by the Ad-hoc Additional Sessions Judge, Aurangabad in criminal appeal No. 50 of 2006 is maintained. However, the sentence is modified by directing that the accused to pay a fine of Rs.30,000/- i/d to suffer S.I. for six months and out of the said fine amount, the amount of Rs.25,000/- shall be paid to the complainant as compensation.
- III. The applicant accused has deposited the amount of

Rs.25,000/- and also deposited separately fine amount of Rs.5000/-. The said amount of Rs.30,000/- shall be adjusted in the fine amount.

IV. Criminal revision application is accordingly disposed of. Rule discharged.

(V. K. JADHAV, J.)

rlj/