

IN THE HIGH COURT OF BOMBAY AT GOA

*Necessary correction
carried out in terms of
order dated 29.03.2019*

CRIMINAL WRIT PETITION NO. 92/2019
~~STAMP NUMBER MAIN NO. 1141 OF 2019~~

Maya Ganesh Naik Dessai
Thr. Nalanda R. Dessai ... Petitioner
Versus
The Quepem Urban Co-op. Credit
Society Ltd., Rep. Thr. its Att.
Surendra M. Gaonkar & 2 Ors. ... Respondents

Mr. Preetam Talaulikar, Advocate for the Petitioner.

Mr. Krishna B. Phaldesai, Branch Manager of the Respondent
No. 1-Bank, in person.

CORAM:- C.V. BHADANG, J.

DATE:- 27th March, 2019

ORAL ORDER:

The learned Counsel for the petitioner undertakes to remove the office objections, during the course of the day. The office to register the criminal writ petition, subject to removal of office objections.

2. The parties have produced an application for compounding, which is taken on record and marked 'X' for identification. The application is signed by the petitioner as well as by the authorised Representative of the respondent no. 1-Bank. The parties admit the correctness of the contents of the application.

3. The petitioner was convicted for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (Act, for short) and was sentenced to undergo simple imprisonment for a period of one year and to pay a compensation of Rs.9,26,113/-, which was confirmed by the learned Sessions Judge in appeal.

4. It is submitted by the learned Counsel for the petitioner that the total compensation of Rs.9,26,113/- has been deposited, out of which, Rs.2,30,000/- is deposited before the learned Sessions Judge at Margao and the remaining amount is deposited with the Bank. The Representative of the respondent no. 1 admits that after the respondent no. 1 is permitted to withdraw Rs.2,30,000/- lying before the learned Sessions Judge at Margao, the Bank would have received the entire compensation of Rs.9,26,113/-.

5. The petitioner has deposited Rs.1,38,916/- with the Goa State Legal Services Authority, in accordance with the decision of the Hon'ble Supreme Court in the case of **Damodar S. Prabhu Vs. Sayed Babalal H. (2010) 5 SCC 663.**

6. In that view of the matter, the following order is passed:

ORDER

- (i) The petition is allowed.
- (ii) The parties are allowed to compound the offence under Section 138 of the Act.
- (iii) The conviction and sentence, awarded to the petitioner, is hereby quashed and set aside.
- (iv) The petitioner is acquitted of the offence punishable under Section 138 of the Act.
- (v) The amount of Rs.2,30,000/-, deposited before the learned Sessions Judge, Margao alongwith interest, if any, shall be released in favour of the respondent no. 1.
- (vi) Bail Bonds of the petitioner stand cancelled.
- (vii) The petition is disposed of in the aforesaid terms.

C.V. BHADANG, J.

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