

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION [APPR] NO.400 OF 2019

[Sau. Swati Anup Agarkar .vs. Shyam Bhaurao Gawande]

IN

CRIMINAL REVISION APPLICATION NO.128 OF 2019

[Sau. Swati Anup Agarkar .vs. State of Maharashtra and one]

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 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

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 Shri N.B. Jawade, Advocate for applicant,
 Shri Amit Chutke, APP for respondent no.1-State,
 Shri Sumit G. Joshi, Advocate for respondent no.2-original
 complainant.

CORAM : MRS. SWAPNA JOSHI, J.

DATED : DECEMBER 13, 2019.

Heard the learned counsel for the parties.

A joint application has been filed by the parties stating that the applicant and the respondent have settled the dispute which was filed by the respondent against the applicant under Section 138 of the Negotiable Instruments Act, which was decided by the learned Judicial Magistrate, First Class, Court No.5, Akola in Summary Criminal Case No.2693/2013 on 7.7.2015, thereby convicting the applicant and sentencing her to suffer simple imprisonment for one month and directing her to pay a fine of Rs.1,00,000/-. Out of the fine amount, Rs.99,000/- is awarded towards compensation to the complainant.

The judgment and order passed by the learned JMFC was challenged before the learned Additional Sessions Judge, Akola in Criminal Appeal No.93/2015 and in the appellate court, the amount of Rs.25,000/- was deposited by the applicant in the court. The appeal was decided by the learned Additional Sessions Judge, Akola on 12.6.2019, thereby dismissing the appeal.

The present revision has been preferred by the applicant against the judgment and order passed by the learned Additional Sessions Judge. The amount of Rs.75,000/- has been deposited by the applicant in this court at the time of suspension of sentence.

Learned advocates for both the sides submit that now the applicant and the respondent have amicably resolved the dispute and it is decided between the parties that the amount deposited by the applicant in the Sessions court to the tune of Rs.25,000/- and before this court to the tune of Rs.75,000/- shall not be claimed by the respondent and the said amount be refunded to the applicant. It is therefore prayed that the necessary order may be passed.

Both the parties are present before this court and they are identified by their respective advocates. So also both the parties have identified their signatures on the application filed before this Court.

In view of the fact that the offence is compoundable, the application deserves to be allowed. Hence the following

order :

The application is allowed, as also Criminal Revision Application is also allowed. The judgment and order passed by the courts below and the conviction of the applicant is hereby quashed and set aside.

The applicant is allowed to withdraw the amount of Rs.75,000/- from this court and Rs.25,000/- from the Sessions Court.

With this order, the application and revision stand disposed of.

[MRS. SWAPNA JOSHI, J.]