

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.30 OF 2020

WITH

INTERIM APPLICATION NO.1 OF 2020

WITH

INTERIM APPLICATION NO.2 OF 2020

Suvalal Bansilal Bhalgat] Applicant

Vs.

Kashinath Dhondiba Gawade and Anr.] Respondents

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Mr. Sunil Jayakar a/w Gunjan Jayakar and Mr. Miheer Jayakar, for the Applicant.

Mr. Divesh Chamboowala, for Respondent No.1.

Ms. M.R. Tidke, Additional Public Prosecutor, for Respondent No.2-State.

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CORAM: PRITHVIRAJ K. CHAVAN, J.

DATE: 13th JANUARY, 2020.

P.C.

The applicant had been convicted and sentenced for an offence punishable under section 138 of the Negotiable Instruments Act by Judicial Magistrate First Class, Pimpari and was directed to undergo simple imprisonment for three months and compensation of Rs.30,000/- (Rs.

Thirty Thousand only). Aggrieved by it, the original accused preferred an appeal before the learned Additional Sessions Judge, Pune which also came to be dismissed by confirming the conviction and sentence passed by the Magistrate's Court. The accused was taken in to the custody.

2. Aggrieved, the original accused has preferred this Revision.

3. Today, the parties have amicably settled the dispute in terms of the declaration-cum-affidavit tendered by the respondent No.1/original complainant. The offence against the applicant/original accused, in terms of the recitals of the affidavit is compounded. The said affidavit is signed by respondent No.1 who is present in person today as well as his Advocate. The same is taken on record and marked **Article-X** for identification.

4. A photo state copy of the receipt indicating deposit of compensation of Rs.30,000/- in the trial Court has also been annexed along with the affidavit. The complainant/respondent No.1 is entitled to receive the said amount from the trial Court.

5. Since the offence has been compounded, the impugned judgment and order of conviction passed by the learned J.M.F.C, Pimpri and ultimately confirmed by the learned Additional Sessions Judge-8, Pune is set aside. The accused/petitioner is acquitted of the offence punishable

under section 138 of the Negotiable Instruments Act. He be set at liberty if not required in any other case.

6. In view of the judgment of the Hon'ble Supreme Court in the case of **Damodar S. Prabhu Vs. Sayed Babalal H., (2010) 5 Supreme Court Cases, 663**, the applicant shall deposit 15% of the cheque amount with the State Legal Services Authority within three weeks.

7. The Criminal Revision Application stands disposed of in the aforesaid terms.

8. In view of disposal of the Revision, all interim applications stand disposed of.

9. S.O to 5th February, 2020 for compliance.

10. All the concerned to act on the basis of the authenticated copy of this order.

[PRITHVIRAJ K. CHAVAN, J.]