

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

CRIMINAL REVISION APPLICATION NO. 156 OF 2020

Kiran Ratanlal Shah. ..Applicant.

v/s.

The State of Maharashtra & anr. ..Respondents.

Mr. Vijay Vasant Nene, advocate for applicant.

Mr. Jawahar Pore, advocate for complainant.

Ms. P.P. Shinde, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : MARCH 6, 2020.

P. C. :

1 Heard the learned Counsel for the applicant, learned Counsel for the respondent No. 2 and the learned APP.

2 The applicant herein is convicted for the offence punishable under section 138 of the Negotiable Instruments Act and sentenced to suffer S.I. for 6 months and to pay fine of Rs. 16 Lakhs I.d. to suffer simple imprisonment for one month by Judicial Magistrate First Class, Phaltan in SCC No. 232 OF 2004 vide Judgment and Order dated 30/6/2012. Being aggrieved by the said Judgment and Order, the applicant herein has filed

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Criminal Appeal No. 5 of 2014 in the Court of Sessions at Satara. The learned Sessions Court vide Judgment and Order dated 24/2/2020 has been pleased to dismiss the appeal. The applicant was taken into custody on 24/2/2020. Hence, this revision application.

3 As on today, the complainant has arrived at an amicable settlement with the accused and an affidavit to that effect is filed. The affidavit is taken on record and marked as Article X for the purpose of identification. The applicant has paid Rs. 9 Lakhs by a pay order. That the brother of the applicant has also issued a cheque to the tune of Rs. One Lakh and the brother of the applicant is present before the Court and it is submitted that he would abide by the undertaking given to this Court by filing present affidavit. Certain post-dated cheques are also issued and the brother of the applicant assures that the said post dated cheques would be honoured.

4 Since the parties have arrived at an amicable settlement, the criminal revision application deserves to be disposed of at the stage of admission. In any case, an offence punishable under section 138 of the Negotiable Instruments Act is compoundable offence under section 320 of the Code of Criminal Procedure, 1973. Hence, the following order is passed.

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ORDER

- (i) Criminal Revision Application is allowed.
- (ii) The Conviction and sentence imposed upon the applicant vide Judgment and Order dated 30/6/2012 in SCC No. 232 of 2004 by the Judicial Magistrate First Class, Phaltan and confirmed vide Judgment and Order dated 24/2/2020 in Criminal Appeal No. 5 of 2014 by Sessions Court, Satara is hereby quashed and set aside.
- (iii) The applicant is acquitted of the charge punishable under section 138 of the Negotiable Instruments Act. He be released forthwith, if not required in any other offence.
- 5 The application is disposed of accordingly.

Parties to act on the authenticated copy of this order.

[SMT. SADHANA S. JADHAV, J.]