

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**901 CRIMINAL REVISION APPLICATION NO.27 OF 2019
WITH APPLN/700/2020 IN REVN/27/2019**

**SHEELA SHESHRAO LOKADE @ SHEELA GANESH
SURYAWANSHI
VERSUS
RACHNA ASHOKRAO HIPPALGAONKAR AND ANR**

Shri. Abid R. Shaikh, Advocate h/f Shri. K. N. Shaikh, Advocate
for the applicant

Shri. G. O. Wattamwar, APP for the respondent/State

Shri. A. V. Indrale Patil, Advocate for respondent No. 1.

**CORAM : M. G. SEWLIKAR, J.
DATED : 14th DECEMBER, 2021**

PER COURT :-

1. Learned counsel Shri. Abid Shaikh for the applicant submits that the applicant has deposited Rs.5,50,000/- on 10th December, 2021. Learned counsel Shri. Indrale Patil also confirms this position. He states that respondent has received the amount. Shri. Indrale Patil submits that in terms of the order of the Hon'ble Supreme court in the case of ***Damodar S. Prabhu Versus Sayed Babalal H.*** reported in ***2010 DGLS(SC)317***. Applicant has to deposit 15% of the cheque amount as cost as applicant compounded the offence in revision in High Court.

2. The total amount of cheque is Rs.7,00,000/-. 15% of the amount of cheque comes to Rs.1,05,000/-. Learned counsel Shri. Indrale Patil invites attention of this court to the observations of the Supreme Court in the case of **Damodar S. Prabhu Versus Sayed Babalal H.** (cited supra) that in appropriate cases Court can reduce the amount of cost by giving reasons. Learned counsel Shri. Shaikh submits that applicant was working in a college as a Clerk. She lost her job. Her husband is a retired teacher. He further submits that already she has paid Rs.5,50,000/- on 10th December, 2021 itself and she had to raise this amount by taking loan from her friends and relatives. He submits that considering the financial constraints of the applicant, amount of cost be reduced.

3. Learned counsel Indrale Patil opposes these submissions. He submits that applicant has utilized the amount of cheque of Rs.7,00,000/- for almost 8 years. She could have compounded the matter either in the Trial Court or in the Appellate Court. She dragged respondent to this Court. Therefore, amount of cost should not be reduced.

4. Considering the submissions made by the learned counsel for the applicant Shri. Abid Shaikh amount of cost is reduced to Rs.30,000/-. Applicant to pay the cost within four weeks.

5. Parties have amicably settled the dispute. The judgment of the Appellate Court in Criminal Appeal No. 12 of 2017, dated 19th January, 2019 confirming the judgment of the Trial Court in Summary Criminal Case No. 548 of 2015, dated 25th September, 2017 stand set aside in terms of Section 148 of the Negotiable Instruments Act on account of out of Court settlement between the parties. In terms of settlement placed on record which is marked as 'X'. Accused stands acquitted of the offence under Section 138 of the Negotiable Instruments Act.

6. Cost to be paid within four weeks from today. On depositing the cost it shall be credited to the High Court, Legal Aid Sub Committee, Aurangabad.

7. Respondent is permitted to withdraw the amount of Rs.2,15,000/- deposited in this Court and Rs. 35,000/- deposited in the Appellate Court.

8. Revision is disposed of. Pending application, if any, stands disposed of.

[M. G. SEWLIKAR, J.]

ssp