

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

CRIMINAL REVISION APPLICATION NO.149 OF 2002

N. J. Shah (Noorbhai)	...Applicant
V/s.	
M/s. Prashva Corporation & Anr.	...Respondents

Mr. Shashikant P. Chaudhari, Appointed Advocate for Applicant.
Mr. Gajendra Jadhav, Advocate for Respondent No.1.
Mr. A. R. Patil, APP for Respondent No.2 (State).

**CORAM : A. S. GADKARI, J.
DATE : 31st MARCH, 2021.**

P.C.:

1. The Applicant has been convicted for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (for short “the N.I. Act”) and directed to suffer rigorous imprisonment for six months and to pay a fine of Rs.5,000/- in default of payment of fine, to further suffer simple imprisonment for three months and to pay compensation of Rs.30,000/- to the Respondent No.1 (Original-Complainant), by the learned Metropolitan Magistrate 20th Court, Mazgaon, Mumbai in C.C. No.282/S/98 by its Judgment and Order dated 06th June 2000.

Criminal Appeal No.138 of 2000 preferred by the Applicant has been dismissed by the learned Additional Sessions Judge, Mumbai by its Judgment and Order dated 15th March 2002.

2. Heard Mr. Chaudhari, learned Advocate appointed by the Legal Aid Committee, for the Applicant, Mr. Jadhav, learned counsel for the Respondent No.1 and Mr. Patil, learned APP for the Respondent No.2-State. Perused record.

3. The record indicates that, by an Order dated 15th April 2002, the Applicant was directed to deposit a sum of Rs.30,000/- in this Court, which the Applicant has complied with.

The present revision was heard on earlier two occasions. During the course of arguments, after taking into consideration, the age of the Applicant, who is about 86 year old, this Court suggested the Applicant and Respondent No.1 to have amicable settlement in the matter to compound the offence, so that the impugned Judgments and Orders can be set aside and the Applicant can be acquitted for the offence punishable under Section 138 of the N.I. Act. This Court has suggested the learned counsel for the Applicant that, the Applicant to pay Rs.30,000/- more i.e. in addition to Rs.30,000/- awarded by the Trial Court towards compensation to Respondent No.1. The said suggestion given by this Court is accepted by learned counsel appearing for both the parties.

4. Mr. Chaudhari, learned Advocate today submitted that, the Applicant has arranged for Rs.30,000/- in cash and has brought the said amount in Court. Mr. Jadhav, learned counsel for Respondent No.1

submitted that, some additional compensation or in the alternative, the interest accrued on Rs.30,000/- which was deposited by the Applicant in furtherance of Order dated 15th April 2002, be granted in his favour. The said suggestion is also accepted by the learned counsel for the Applicant.

5. In view of the above, the Applicant is directed to pay an additional sum of Rs.30,000/- to the Respondent No.1. Mr. Chaudhari, learned Advocate submitted that, cash of Rs.30,000/- is being handed over to Mr. Jadhav immediately and in any event, during the course of the day. The said statement is accepted.

6. Registry is directed to release an amount of Rs.30,000/- alongwith the interest accrued thereon from the date of its deposit in the Registry till today, in favour of Respondent No.1 i.e. Shri. Nitin Shashikant Bankharia.

It was submitted across the bar that, the proprietary concern of Shri. Nitin Shashikant Bankharia, namely Parshva Corporation has closed its business. In view thereof, the said amount of Rs.30,000/- along with interest accrued thereon as noted hereinabove be released in favour of Mr.Nitin Shashikant Bankharia (Original-Complainant) within a period of three weeks from the date of receipt of the present Order.

7. As the parties herein have settled the matter amicably in the aforesaid terms, the impugned Judgments and Orders dated 6th June

2000, passed in C.C. No.282/S/98 by the learned Metropolitan Magistrate, 20th Court, Mazgaon, Mumbai and 15th March 2000, passed in Criminal Appeal No.138 of 2000 by the learned Additional Sessions Judge, Mumbai are quashed and set aside and the Applicant is acquitted from the offence punishable under Section 138 of the N.I. Act.

8. Revision is allowed in the aforesaid terms.
9. All the concerned to act on the basis of an authenticated copy of this Order.

(A. S. GADKARI, J.)