

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 714 OF 2018

Paresh Dave
Versus
1. Kings Empires Heights Pvt.Ltd.
2. State of Maharashtra

...Applicant

...Respondents

ALONGWITH
CRIMINAL APPLICATION NO. 738 OF 2018

Paresh Dave
Versus
1. Kings Empires Heights Pvt.Ltd.
2. State of Maharashtra

...Applicant

...Respondents

Mr. A.K.Chauhan for the Applicant.

Mr. Mehul Shah for the Respondent No.1.

Mr. A.D.Kamkhedkar, A.P.P for the Respondent No.2-State.

CORAM : REVATI MOHITE DERE, J.
DATE : 23rd JULY, 2021
(Through Video Conferencing)

P.C. :

1. Both the Criminal Applications i.e. Criminal Application Nos.714 of 2018 and 738 of 2018 are taken up for final disposal, having regard to the settlement arrived at between the parties i.e. between the

Applicant and the Respondents.

2. Mr. Pankaj Shah, Managing Director of Respondent No.1 M/s Kings Empires Heights Private Limited has filed a common affidavit-cum-declaration in both the aforesaid applications. The said affidavit-cum-declaration is dated 18th May, 2021. In the said affidavit-cum-declaration, duly affirmed by Mr. Pankaj Shah, Managing Director of Respondent No.1, it is stated that he has been authorized by the Board of Directors vide Resolution dated 12th May, 2021 to fully and finally settle all the claims relating to the cases in question i.e. C.C.No.13375/SS/2010 and C.C. No.13376/SS/2010. It is further stated that the Respondent No.1/company had filed the aforesaid two cases in the 50th Metropolitan Magistrate Court, for dishonour of two cheques bearing No.000315 dated 7th June, 2010, drawn on YES Bank, Goregaon (West) branch in the sum of Rs.20,00,000/- and another cheque bearing No.115558 dated 31st May, 2010 drawn on HSBC Bank, Vile Parle Branch in the sum of Rs.20,00,000/-, in favour of the Respondent No.1. It is not in dispute that in both the cases, the Applicant was convicted vide Judgment and Order dated 6th May, 2014, for the offences punishable under Section 138 of the Negotiable Instruments Act and that the said Judgments and Order convicting and sentencing the Applicant under Section 138 of the Negotiable Instruments Act was

confirmed by the Appellate Court i.e. Sessions Court in Criminal Appeal Nos. 505 of 2014 and 506 of 2014 vide Judgment and Order dated 30th March, 2017. Being aggrieved by the said Judgment and Orders, the aforesaid applications i.e. Criminal Application Nos.714 of 2018 and 738 of 2018 have been filed.

3. Both the aforesaid applications were admitted by this Court vide order dated 4th October, 2018 and the Applicant's sentences were suspended. The Applicant was directed to deposit the compensation amount of Rs.23,00,000/- in each of the cases, in the Registry of this Court. Admittedly, the said amounts have been deposited by the Applicant in the Registry of this Court.

4. In the interregnum, during the pendency of the applications, the complainant i.e. Respondent No.1 settled the dispute with the Applicant in both the aforesaid applications. It is further stated that in terms of the settlement arrived at between the parties, the Respondent No.1 be permitted to withdraw the amount from the Registry of this Court alongwith interest accrued thereon. The complainant i.e. Respondent No.1 has also given his no objection for quashing of both the criminal cases i.e. C.C.Nos. 13375/SS/2010 and 13376/SS/2010 as well as the Judgment and Order

dated 6th May, 2014 passed by the learned Metropolitan Magistrate and the Judgment and Order dated 30th March, 2017 passed by the Appellate Court, in view of the settlement arrived at between the parties.

5. Learned Counsel for the Applicants, on the instructions of the Applicant in Criminal Application Nos. 714 of 2018 and 738 of 2018, states that in view of the settlement, the Applicant has no objection if the Respondent No.1 is permitted to withdraw the said amounts deposited by the Applicant in both the aforesaid applications i.e. Rs.23,00,000/- in each of the applications alongwith the interest accrued thereon. Statement accepted.

6. In view of the settlement between the Applicant as well as Respondent No.1 as aforesaid, the impugned Judgments and Orders dated 6th May, 2014 passed by the learned Magistrate in C.C.No.13375/SS/2010 and C.C.No. 13376/SS/2010; as well as the Judgments and Orders dated 30th March, 2017 passed by the learned Sessions Judge, confirming the said conviction and sentence, are quashed and set aside and the Applicant is acquitted of the offence in both the cases i.e. C.C.No.13375/SS/2010 and C.C.No. 13376/SS/2010.

7. The Respondent No.1 is permitted to withdraw the amounts deposited by the Applicant i.e. Rs. 23,00,000/- in each of the applications alongwith interest accrued thereon, if any, on furnishing proof of his identity.

8. The Applicant to deposit costs of Rs.50,000/- in each of the applications, with the TATA Cancer Children's Hospital, Parel, Mumbai, within four weeks from today and the receipt of the said payment be filed in the Registry of this Court.

9. Rule is made absolute on aforesaid terms. Criminal Application Nos. 714 of 2018 and 738 of 2018 are disposed of accordingly.

10. Matter to be listed on 27th August, 2021 for recording compliance of the said deposit.

11. All concerned to act on the authenticated of this order.

REVATI MOHITE DERE, J.