

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APPR) NO.61/2021
WITH
CRIMINAL APPLICATION (APPR) NO.62/2021
IN
CRIMINAL REVISION APPLICATION NO.59/2020

Alim Khan Rauf Khan,
-VERSUS-
Sopan Pandit Shelke,

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri P.A. Kadu, Advocate for appellant/applicant.

CORAM : VINAY JOSHI, J.
DATE : APRIL 08, 2021.

Hearing was conducted through Video Conferencing.

2. The appellant was convicted by Judicial Magistrate First Class, Court No.1, Amravati for the offence punishable under Section 138 of the Negotiable Instrument Act, and sentence was confirmed by the Sessions Court in appeal.

3. Being aggrieved by the judgment of conviction, this revision application has been filed in which the execution of substantive sentence has been suspended.

4. In the wake of such position, due to absence of appellant, revision came to be dismissed on 11/02/2021 for want of prosecution. Now, the parties have settled the matter and

accordingly have filed a joint application No.78/2021 on account of their settlement. In view of that for the reasons stated in the Criminal Application No.61/2021, the same is allowed and Criminal Revision Application No.59/2020 is restored on the same stage. In consequence, Criminal Application No.62/2021 also stands allowed with clarification that earlier order dated 09/03/2020 about suspension of execution of sentence stands restored.

5. Criminal Application Nos.61/2020 and 62/2020 stand disposed.

CRIMINAL APPLICATION NO.78/2021

This is a joint application filed by original complainant and accused about settlement of the dispute relating to offence under Section 138 of the Negotiable Instrument Act. Initially appellant Alim Khan was convicted for aforesaid offence and sentenced to suffer rigorous imprisonment for eight months and to pay compensation of Rs.65,000/- with stipulation of default. The said order of conviction was confirmed in the Criminal Appeal No.33/2014 vide judgment and order dated 17/02/2020.

Being aggrieved, the applicant (accused) preferred this Criminal Revision No.59/2020 in which the execution of sentence has been suspended on certain terms.

3

During the pendency, both parties have amicably settled the dispute out of the Court and accordingly filed this application for disposal of the appeal as per settlement. The parties have agreed to settle the dispute towards payment of compensation of Rs.22,000/- by the accused to original complainant as full and final settlement.

Today both parties and particularly original complainant-Sopan Pandit Shelke is present in the chamber of Advocate Kadu with whom I have interacted through video conference. Advocate Kadu has identified the person with whom I have interacted as complainant namely Sopan Shelke. Besides that I have inquired with complainant Sopan Shelke on which I found that he understood the terms of this application and agreed that towards full and final settlement, he has received the DD of Rs.22,000/-. He also agreed that whatever the amounts deposited by appellant in this Court and Appellate Court would be returned to the appellant accused. He has no objection to decide the matter and to set aside the conviction on the basis of compromise.

The offence was essentially for dishonour of cheque. In terms of Section 147 of the Negotiable Instrument Act, the offence is made compoundable. The offence is of quasi civil nature and it has no element of dishonest intention.

Having regard to the fact that in order to maintain

4

cordial relations, the parties have settled the dispute, the compromise is accepted and following order is passed:

- I) Criminal application stands allowed.
- II) The order of conviction passed in Summary Criminal Case No.4375/2010 vide judgment and order dated 16/01/2014 which was confirmed on 17/02/2020 in Criminal Appeal No.33/2014 is hereby quashed and set aside.
- III) As per settlement, the appellant is entitled to receive all the deposits made by him in this Court and Appellate Court. The respondent has already received the settlement amount of Rs.22,000/- by way of DD.
- IV) Criminal Revision Application No. 59/2020 and Criminal Application No.78/2021 are accordingly disposed of.

JUDGE

R.S. Sahare