

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

**CRIMINAL REVISION APPLICATION NO.100 OF 2022
WITH
INTERIM APPLICATION NO.606 OF 2022
AND
INTERIM APPLICATION NO.605 OF 2022**

M/s.Prime Enter Prises and Anr. .. Applicants

Versus

Sohan Yogesh Shah and Anr. .. Respondents

**WITH
CRIMINAL REVISION APPLICATION NO.101 OF 2022
WITH
INTERIM APPLICATION NO.607 OF 2022
AND
INTERIM APPLICATION NO.608 OF 2022**

M/s.Prime Enter Prises and Anr. .. Applicants

Versus

Sagar Atul Shah and Anr. .. Respondents

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Mr.Sudeep Pasbola i/b.. Mr.Jayant Gohil, Advocate for the Applicants.

Mr.Vimlesh Singh, Advocate for Respondent No.1.

Mr.Arfan Sait, APP for Respondent No.2-State.

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CORAM : PRAKASH D. NAIK J.

DATED : JULY 14, 2022.

P.C. :

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The parties have resolved the dispute. The Revision applicant has been convicted for an offence punishable under Section 138 of Negotiable Instruments Act. The compensation amount was

directed to be deposited in both the proceedings to the tune of Rs.12,50,000/- along with interest accrued therein by the trial Court.

2 Learned counsel for the revision applicant on instructions from the applicant, who is present in the court submits that the applicant would hand over Demand Draft in the sum of Rs. 7,00,000/- to the respondent No.2, who is present in the Court. Two Demand Draft's for amount of Rs.3,50,000/- each bearing Nos. 000584 & 000585 drawn on HDFC Bank are handed over to the Respondent No.1 in the Court.

3 Learned counsel for the applicant further submitted that the amount of Rs.1,50,000/- deposited before the Trial Court may be allowed to be withdrawn by complainant.

4 Learned advocate for the applicant submitted that amount of Rs.1,30,000/-, in respect to both the revision applications has been handed over to the complainant by Demand Draft. The photocopies of the Demand Draft are placed on record. It is further submitted that the amount of Rs.20,000/-, would be handed over to the complainant in the Court today. The receipt regarding deposit of Rs.1,50,000/- has been handed over to the advocate for the complainant.

5 Considering the aforesaid circumstances, I pass the following order:

:: ORDER ::

(I) Criminal Revision Application Nos.100 and 101 of 2022, are allowed;

(ii) The sentence imposed *vide* judgment and order dated 18th January, 2017, passed by learned Metropolitan Magistrate 6th Court, Mazgaon at Sewree in CC No.1129/SS/2016, and, confirmed by the Sessions Court *vide* judgment and order dated 17th December, 2021, passed in Criminal Appeal No.117 of 2017, is set aside and the revision application, is acquitted for offence under Section 138 of Negotiable Instruments Act;

(ii) The sentence imposed *vide* judgment and order dated 18th January, 2017, passed by learned Metropolitan Magistrate 6th Court, Mazgaon at Sewree in CC No.1130/SS/2016, and, confirmed by the Sessions Court *vide* judgment and order dated 17th December, 2021, passed in Criminal Appeal No.118 of 2017, is set aside and the revision application, is acquitted for offence under Section 138 of Negotiable Instruments Act;

- (iii) The amount of Rs.75,000/-, deposited by the revision applicant in each case (total amount of Rs.1,50,000/-), i.e. in CC No.1129/SS/2016 and 1130/SS/2016, before the learned Metropolitan Magistrate 6th Court at Mazgaon, is allowed to be withdrawn by the complainant;
- (iv) The amount of Rs.10,000/-, each, deposited by the revision applicant in CC No.1129/SS/2016 and 1130/SS/2016, is allowed to be withdrawn by the revision applicant;
- (v) The revision applicant shall cooperate the complainant in withdrawal of the amount;
- (vi) Revision Applications stand disposed of;
- (vii) All Interim Applications stand disposed of accordingly.

(PRAKASH D. NAIK, J.)