

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO. 18 OF 2021
WITH
INTERIM APPLICATION NO. 1996 OF 2022

Rajendra Madhukar Kulthe ...Applicant
Versus
Sham Baburao Hire ...Respondent

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Mr. Sachin Gite, Advocate for the Applicant.

Ms. Neelam Yadav, Advocate for Respondent No.1.

Mr. Arfan Sait, APP for the Respondent – State.

CORAM : PRAKASH D. NAIK, J.
DATE : 30th JUNE, 2022.

PER COURT:

1. The revision application has been preferred before this Court challenging the judgment and order dated 28th June, 2016 passed by the learned J.M.F.C. Nashik road, Nashik in Summary Criminal Case No.1049 of 2011, wherein the applicant was convicted for offence under Section 138 of Negotiable Instruments Act, 1881 and sentenced to suffer imprisonment for 4 months and to pay compensation of Rs.1,60,000/-. The said judgment and order was challenged before the Sessions Court by preferring an appeal in Criminal Appeal No.143 of 2016 which has been dismissed vide judgment and order dated 21st January, 2021. The revision

application has admitted by this Court and the sentence of imprisonment has been suspended.

2. Learned counsel for the applicant and the Respondent No.1 jointly submitted that the parties have arrived at amicable settlement by executing the memorandum of understanding which has been annexed to interim application No.1996 of 2022. It is submitted that, as per memorandum of understanding the revision applicant is supposed to pay an amount of Rs.1,25,000/- to the complainant. The amount of Rs.1,20,000/- has been deposited before the Sessions Court during the pendency of appeal. Apart from that the amount of Rs.5,000/- would be paid to the complainant in cash. It is also submitted that the complainant may be permitted to withdraw the amount of Rs.1,20,000/- deposited by the revision applicant before the Court of Sessions. In the event such application is preferred by the complainant, the revision applicant would give consent for such withdrawal.

3. In view of the settlement arrived at between the parties, I pass the following order.

ORDER

- i. Criminal Revision Application No.18 of 2021 and Interim Application No. 1996 of 2022 are allowed and disposed of;

ii. The complainant is permitted to withdraw the amount of Rs.1,20,000/- deposited by the applicant before the Court of Sessions. In the event such application is preferred by the complainant for withdrawal of the said amount, the revision applicant shall give consent for such withdrawal and extend cooperation.

iii. The balance amount of Rs.5,000/- shall be paid in cash to complainant within two days from date of uploading this order.

iv. The impugned judgment order dated 28th June, 2016 passed by the learned J.M.F.C. Nashik road, Nashik in Summary Criminal Case No.1049 of 2011, and the judgment and order dated 21st January, 2021 passed by Sessions Court in Criminal Appeal No.143 of 2016 are quashed and set aside and the revision applicant is acquitted of the charge under Section 138 of Negotiable Instruments Act, 1881.

(PRAKASH D. NAIK, J.)