

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.108 OF 2019

Yeshwant Shivanand Rao

Applicant

versus

Parmiladevi Hasmukhlal Jain
(wife of Legal Heir of deceased Mr.
Hasmukh S. Gala)

Respondent

Ms.Neha N. Chhajalane, Advocate for applicant.
Mr.Ranvir Shekhawat i/by Raj Legal, Advocate for respondent no.1.
Mr.R.PShirole, Advocate for respondent nos.1a to 1c.
Mr.S.R.Agarkar, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 5th August 2022

PC :

1. Learned Advocate Mr.Ranvir Shekhawat is discharged from appearing in this proceeding since new advocate is representing complainant.

2. The revision applicant has been convicted for the offence u/s.138 of Negotiable Instruments Act (`N.I.Act') vide judgment and order dated 22nd April 2016 passed by Metropolitan Magistrate, 53rd Court, Mulund, Mumbai, in Criminal Case No.152/SS/2010 for offence u/s.138 of N.I.Act and sentenced to suffer simple imprisonment for three months and directed to pay compensation of Rs.10 lakh. The said judgment of conviction was challenged by preferring appeal before the Court of Sessions. The appeal was dismissed by judgment and order dated 15th January 2019 by learned Additional Session Judge, Greater Bombay in Criminal Appeal

No.418 of 2019. Pursuant to the said order present revision application has been preferred before this Court.

3. Vide order dated 18th September 2019 the sentence imposed by the Courts below was suspended and revision applicant was directed to be released on bail. Thereafter Interim Application No.2825 of 2021 was preferred at the instance of complainant stating that complainant was expired on 5th August 2020 and legal representatives of complainant may be permitted to be impleaded in this revision application. The said application was allowed by granting such permission vide order dated 25th November 2021.

4. Learned advocate appearing for both sides submitted that there is settlement between revision applicant and legal representatives of complainant who were brought on record in accordance with order of this Court. Parties have executed consent terms. As per consent terms it is agreed by the revision applicant and the legal representatives of complainant that the matter should be settled on payment of Rs.5,00,000/- (Rs.Five lakh only). It is submitted that the amount of Rs.2,00,000/- has been deposited by revision applicant before Sessions Court during pendency of appeal which may be allowed to be withdrawn by legal representatives of complainant. The revision applicant has brought demand draft of Rs.3,00,000/-. The demand draft dated 5th August 2022 drawn on Canara Bank for Rs.3,00,000/- drawn in the name of wife of original complainant is handed over to the legal representatives (wife and son of complainant) who are present in the Court. They have confirmed that there is settlement between parties and they have no objection for setting aside the conviction. Receipt of deposit of amount of Rs.2,00,000/- in the Sessions Court shall be provided to

the wife of original complainant. The revision applicant shall co-operate with the wife of complainant for withdrawal of amount from Sessions Court of Greater Bombay.

5. The consent terms dated 5th August 2022 are taken on record and marked "X" for identification.

ORDER

- (i) Revision Application No.108 of 2019 is allowed and disposed of;
- (ii) The judgment and order dated 22nd April 2016 passed by Metropolitan Magistrate, 53rd Court, Mulund, Mumbai, in Criminal Case No.152/SS/2010 convicting revision applicant for offence u/s.138 of Negotiable Instruments Act as well as judgment and order dated 15th January 2019 by learned Additional Session Judge, Greater Bombay in Criminal Appeal No.418 of 2019 are quashed and set aside and revision applicant is acquitted;
- (iii) The revision applicant shall co-operate with the wife of original complainant in withdrawal of Rs.2,00,000/- deposited by him in Sessions Court;
- (iv) Receipt of deposit of Rs.2,00,000/- be provided by revision applicant to the wife of original complainant;
- (v) Learned advocate Mr.R.P.Shirole is permitted to tender his Vakalatnama for legal representatives of original complainant in Court.

(PRAKASH D. NAIK, J.)