

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

CRIMINAL REVISION APPLICATION NO. 235 OF 2016

Shankar S/o. Sayabanna Kunchikurve ...Applicant
Versus
The State Of Maharashtra And Anr. ...Respondents

**WITH
INTERIM APPLICATION NO. 1940 OF 2022
IN
CRIMINAL REVISION APPLICATION NO. 235 OF 2016**

Dr. Aparna Niteen Prabhu ...Applicant

IN THE MATTER BETWEEN :-

Shankar S/o. Sayabanna Kunchikurve ...Applicant
Versus
The State Of Maharashtra And Anr. ...Respondents

....

Mr. Ashok M.Saraogi, Advocate for the Applicant.

Mr. Tushar Nirbhavane, Advocate for Respondent No.2 in revision application and Applicant in Interim Application.

Mr. A. R. Patil, APP for the Respondent – State.

....

**CORAM : PRAKASH D. NAIK, J.
DATE : 29th AUGUST, 2022.**

PER COURT:

1. This revision application is preferred challenging the impugned judgment and order dated 22nd June, 2022 passed by the Court of learned Metropolitan Magistrate 72nd Court, Vikhroli, Mumbai in Criminal Complaint No.868/SS/2009. Vide judgment

and order dated 22nd June, 2022, the revision applicant was convicted for offence under Section 138 of Negotiable Instruments Act and sentenced to suffer imprisonment for six months and directed to pay compensation of Rs.5,02,000/- to the complainant. The judgment of conviction was challenged by preferring Criminal Appeal No.444 of 2012 before the Sessions Court which was dismissed by judgment and order dated 15th March, 2016. However, the amount of compensation was reduced to Rs.4,00,000/-.

2. The revision application is admitted and the sentence of imprisonment has been suspended.

3. The revision applicant has so far deposited the amount of Rs.3,00,000/- before the Courts below. Interim application No.1940 of 2022 is preferred by the complainant for withdrawal of the amount deposited before the Courts below.

4. Learned Advocate for the revision applicant submitted that the matter can be settled. The complainant can be allowed to withdraw the amount of Rs.3,00,000/- deposited by the revision applicant and the balance amount of Rs.1,00,000/- would be deposited by the revision applicant within a period of four weeks from today, which also may be allowed to withdrawn by the

original complainant.

5. Learned Advocate for the respondent/complainant submits that, since the revision applicant has agreed to deposit the amount of Rs.1,00,000/- and has also agreed for withdrawal of entire amount of Rs.4,00,000/- by the complainant and this proceedings can be disposed of. Both the sides had agreed that the revision application preferred challenging the impugned judgment and orders passed by the Courts below can be allowed and the matter can be listed for compliance after a period of four weeks.

6. Considering the aforesaid circumstance, I pass the following order :

ORDER

- i. Criminal Revision Application No. 235 of 2016 is allowed and disposed off;
- ii. Impugned judgment and order dated 22nd June, 2022 passed by the Court of learned Metropolitan Magistrate 22nd Court and modified by judgment and order dated 15th March, 2016 passed by the Sessions Court in Criminal Appeal No.444 of 2012 are set aside and the revision applicant is acquitted for offence punishable under Section 138 of Negotiable Instruments Act.

- iii. The complainant/respondent No.1 is allowed to withdraw the amount of Rs.3,00,000/- deposited by the revision applicant before the Courts below.
- iv. The revision applicant shall cooperate with the complainant for withdrawal of the said amount.
- v. The revision applicant shall deposit the balance amount of Rs.1,00,000/- before the trial Court within a period of four weeks and the complainant is also allowed to withdraw the said amount.
- vi. The further amount of Rs.1,00,000/- has to be deposited within a period of four weeks and the revision application be listed 'for compliance' on 30th September, 2022.
- vii. Interim Application is disposed off accordingly.

(PRAKASH D. NAIK, J.)