

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION (STAMP) NO.209 OF 2017
WITH
CRIMINAL APPLICATION NO.190 OF 2017
WITH
CRIMINAL APPLICATION NO.191 OF 2017
IN
CRIMINAL REVISION APPLICATION (STAMP) NO.209 OF 2017

Dilip P. Mehta	Applicant
versus	
Jayantilal Jethmal Kothari and another	Respondents

Mr.S.N.Raj with S.M.Chaurasia i/by Raj & Associates, Advocate for applicant.

Mr.J.S.Anand, Advocate for respondent no.1.

Mr.S.R.Agarkar, APP, for State

Mr.Dilip P. Mehta, applicant, present in Court.

Mr.Jayantilal J. Kothari, respondent no.1, present in Court.

CORAM : PRAKASH D. NAIK, J.

DATE : 29th June 2022

PC :

1. The revision applicant is convicted by the Court of learned Metropolitan Magistrate, 14th Court, Girgaon, Mumbai vide judgment and order dated 20th January 2014 in CC No.301/SS/2009 for offence u/s.138 of Negotiable Instruments Act and sentenced to suffer simple imprisonment of three months and to pay compensation of Rs.2,50,000/- to the complainant. The appeal preferred by the applicant challenging the said conviction was dismissed by the Court of Sessions, Greater Bombay vide judgment and order dated 5th November 2015.

2. Criminal Application No.190 of 2015 was preferred by applicant for condonation of delay of 406 days in preferring revision application. Criminal Application No.191 of 2017 is for suspension of sentence and grant of bail.

3. Learned counsel representing both the sides have submitted that parties have arrived at settlement and executed consent terms dated 26th February 2021. The reply filed by respondent no.1 along with consent terms is placed on record. The consent terms indicate that amount of Rs.2,50,000/- has been paid to the complainant. In view of the consent terms, the complainant has no objection for setting aside the judgment of conviction passed by Trial Court and confirmed by Appellate Court. The complainant and accused are present in Court. It is not disputed that amount of Rs.2,50,000/- has already been parted to the complainant.

4. It is stated that amount of Rs.50,000/- has been deposited by the accused before Trial Court. The complainant has no objection for withdrawal of said amount of Rs.50,000/- deposited before Trial Court by accused-applicant.

5. In view of the consent terms, I pass following order :

ORDER

- (i) Criminal Application No.190 of 2017 seeking condonation of delay is allowed and disposed of;
- (ii) Revision Application (Stamp) No.209 of 2017 is allowed and disposed of;

- (iii) The judgment and order dated 20th January 2014 passed by Metropolitan Magistrate, 14th Court, Girgaon, Mumbai in CC No.301/SS/2009 as well as judgment and order dated 5th November 2015 passed by Additional Sessions Court, Greater Bombay in Criminal Appeal No.138 of 2014, are set aside and Revision Applicant is acquitted of the offence u/s.138 of Negotiable Instruments Act;
- (iv) Criminal Application No.191 of 2017 stands disposed of.

(PRAKASH D. NAIK, J.)

MST