

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

**CRIMINAL REVISION APPLICATION NO. 246 OF 2022
WITH
CRIMINAL REVISION APPLICATION NO. 250 OF 2022
WITH
CRIMINAL REVISION APPLICATION NO. 248 OF 2022
WITH
CRIMINAL REVISION APPLICATION NO. 247 OF 2022
WITH
CRIMINAL REVISION APPLICATION NO. 249 OF 2022**

Dhawal Shah ...Applicant
Versus
State Of Maharashtra And Anr. ...Respondents

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Mr. Vivek Arote, Advocate for the Applicant in all applications.

Mr. Kishor Bhatia i/by Ms. Falguni S. Thakkar, Advocate for Respondent No. 2.

Mr. S. R. Agarkar, APP for the Respondent – State in Criminal Revision Application No.250 of 2022 & 248 of 2022

Mr. Arfan Sait APP for the Respondent – State in Criminal Revision Application No.247 of 2022.

Mr. A. R. Patil, APP for the Respondent – State in Criminal Revision Application No.246 of 2022 & 249 of 2022 and

**CORAM : PRAKASH D. NAIK, J.
DATE : 6th SEPTEMBER, 2022.**

PER COURT:

1. These revision applications are preferred challenging the judgments of conviction under Section 138 of Negotiable Instruments Act. The revision applicant was prosecuted for the

aforesaid offence vide five different complaints which had resulted in conviction. Subsequently the appeals preferred by the revision applicant challenging the judgments of convictions were dismissed.

2. The Revision applicant has been convicted in different complaints which are subject matter of these revision applications. In C.C. No.6170/SS/2015 the applicant is convicted vide judgment and order dated 1st September, 2018 and sentenced to suffer simple imprisonment of one year and to pay compensation of Rs.48,21,348/- with simple interest of 9% per annum. The appeal challenging the said judgment was dismissed by judgment and order dated 11th April, 2022. In C.C. No.6171/SS/2015 the applicant is convicted for offence under Section 138 of Negotiable Instruments Act, 1881 by judgment and order dated 1st September, 2018 and sentenced to suffer imprisonment of 3 months and to pay compensation of Rs.5,00,000/-. Criminal Appeal No.313 of 2021 was dismissed on 11th April, 2022. In C.C. No.6172/SS/2015 the Applicant was convicted and sentenced to suffer simple imprisonment for 3 months and to pay fine of Rs.5,00,000/-. Criminal Appeal No.314 of 2021 challenging the conviction was dismissed by judgment dated 11th April, 2022. In C.C. No.6173/SS/2015, the Applicant was convicted by judgment dated

1st September, 2018 and sentenced to suffer imprisonment of 9 months and to pay of Rs.15,69,768/-. Criminal Appeal No.312 of 2021 challenging the said judgment was dismissed by judgment dated 11th April, 2022. In C.C. No.6169/SS/2015 the Applicant is convicted by judgment dated 1st September, 2018 and sentenced to suffer simple imprisonment for 6 months and to pay compensation of Rs.3,12,876/-. Criminal Appeal 311 of 2021 challenging the said judgment is dismissed by judgment dated 11th April, 2022.

3. Learned counsel for the applicant and Respondent No.2 submitted that the parties have arrived at amicable settlement. The consent terms are executed between the parties. As per the consent terms the amount of Rs.4,00,000/- has been paid to Respondent No.2 on 4th July, 2022. The applicant had agreed to pay the sum of Rs.8,00,000/- on or before 5th September 2022 by RTGS in the account of Respondent No.2. The applicant has also agreed to allow the Respondent No.2 to withdraw the sum of Rs.7,70,400/- deposited by the applicant as security in the bail applications filed by applicant. The applicant had agreed to sign all necessary documents and issued letter of Authority to Respondent No.2 and cooperate in every manner required to recover the sum from the Court. It is also agreed that, on receipt of the entire settlement

amount from the applicant, the Respondent No.2 shall not claim any amount towards the complaints filed before the Court of learned Magistrate under Section 138 of Negotiable Instruments Act and Summary Suit in the Civil Court at Thane. He would withdraw all the proceedings. The parties have also agreed to withdraw all the allegations made against each other before any authority and shall refrain from filing any complaints in future in respect of the present claim and shall not demand in future any amount from each other.

4. Clause 6 of the consent terms referred to deposit of amount of Rs.12,00,000/- on or before 5th September, 2022. It is clarified that as far as deposit of amount of Rs.12,00,000/- stipulated in clauses 1 & 2 of consent terms, the amount of Rs.4,00,000/- is already paid to the complainant and the balance amount of Rs.8,00,000/- was to be paid on or before 5th September, 2022. The consent terms are signed by both the parties. Both the parties were present in the Court on previous date of hearing. Consent terms were taken on record and marked as 'X' for identification.

5. Vide order dated 5th July, 2022, the revision applications were admitted and the interim applications were allowed. The sentence of imprisonment awarded by the trial Court and

confirmed by the Sessions Court while dismissing the appeal were suspended. It is submitted by both the sides that the said balance amount has been paid to the complainant. In view of payment of the amount as agreed by both the sides, the revision applications may be allowed and the disposed off. Hence, I pass the the following order :

ORDER

- i) Criminal Revision Application Nos. 246 of 2022, 247 of 2022, 248 of 2022, 249 of 2022 and 250 of 2022 are allowed.
- ii) Impugned orders dated 01.09.2018 passed by learned Metropolitan Magistrate, 33rd Court, Ballard Pier, Mumbai in C.C.Nos. 6170/SS/2015, 6172/SS/2015, 6171/SS/2015, 6173/SS/2015, 6169/SS/2015 and confirmed vide orders dated 11.04.2022 in Criminal Appeal Nos. 310 of 2021, 314 of 2021, 313 of 2021, 312 of 2021 & 311 of 2021 passed by the learned Additional Sessions Judge, City Civil and Sessions Court, Greater Bombay are set aside and the revision applicant is acquitted in all the cases.
- iii) All Criminal Revision Applications are disposed off.

(PRAKASH D. NAIK, J.)