

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

**CRIMINAL REVISION APPLICATION NO. 200 OF 2020
WITH
INTERIM APPLICATION NO. 1313 OF 2020**

Manik Jaysingrao Mulik ...Applicant
Versus
Jayesh Chandrakant Mirani And Anr. ...Respondents

**WITH
CRIMINAL REVISION APPLICATION NO. 201 OF 2020
WITH
INTERIM APPLICATION NO. 1315 OF 2020**

Manik Jaysingrao Mulik ...Applicant
Versus
Jayesh Chandrakant Mirani And Anr. ...Respondents

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Mr. Jayant J. Bardeskar, Advocate for the Applicant in both Applications.

Mr. Prashant D. Jadhav, Advocate for Respondent No.1 in both Applications.

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

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CORAM : PRAKASH D. NAIK, J.
DATE : 12th SEPTEMBER, 2022.

PER COURT:

1. The revision applicant has challenged the order dated 16.01.2020 passed by the Sessions Court in Criminal Appeal No.254 of 2018 and the judgment order dated 26.03.2018 passed by the Court of learned Metropolitan Magistrate, 27th Court,

Mulund, Mumbai in C.C. No.1786/SS/2015. The revision applicant has also challenged the judgment and order dated 16.01.2020 passed by the learned Additional Sessions Judge in Criminal Appeal No.253 of 2018 and judgment and order dated 26.03.2018 passed by the Court of learned Metropolitan Magistrate, 27th Court, Mulund, Mumbai in C.C. No.1785/SS/2015. In both the complaints, the revision applicant was convicted for offence under Section 138 of Negotiable Instruments Act, 1881 and sentenced to suffer simple imprisonment for one year and to pay fine of Rs.20,00,000/-. The appellants challenging the judgment of the trial Court in both the cases were dismissed and sentence of fine was confirmed.

2. The Advocates representing both the sides have jointly submitted that the parties have arrived at amicable settlement. Consent terms are executed. It is agreed between both the sides that the matters can be settled on payment of Rs.13,50,000/- in each matter to the complainant. It is also agreed that the amount of Rs.10,50,000/- deposited in each complaint which is subject matter of the revision application before the trial Court can be allowed to be withdrawn by the original complainant. The balance amount of Rs.3,00,000/- has paid by way of Demand Draft. The

photo copy of the said Demand Draft has been produced for consideration to the complainant. The said Demand Draft of Rs.3,00,000/- each are handed over to the complainant in the Court. Out of Rs.10,50,000/- deposited in each case, the complainant has withdrawn the amount of Rs.8,00,000/- in each complaint.

3. Learned Advocate on instructions from the complainant, who is present in the Court submitted that, in view of settlement arrived at between the parties, the revision applications can be allowed and the judgment of the conviction can be set aside by acquitting the revision applicant (accused). The consent terms are taken on record and marked as 'X' & 'X-1' for identification.

4. In view of submissions, I pass the following order :-

ORDER

- i. Criminal Revision Application Nos.200 of 2020 and 201 of 2020 are allowed;
- ii. The judgment and order dated 26.03.2018 passed in C.C. No.1786/SS/2015 passed by learned Metropolitan Magistrate, 27th Court, Mulund, Mumbai convicting the revision applicant for offence under Section 138 of Negotiable Instruments Act, 1881 and the judgment and order dated

16.01.2020 passed by the Sessions Court, Mumbai in Criminal Appeal No.254 of 2018 confirming the judgment of the trial Court are set aside and the revision applicant is acquitted in C.C. No.1786/SS/2015.

iii. The judgment and order dated 26.03.2018 passed by the Court of learned Metropolitan Magistrate, 27th Court, Mulund, Mumbai in C.C. No.1785/SS/2015 convicting the revision applicant for the offence punishable under Section 138 of Negotiable Instruments Act, 1881 as well as judgment and order dated 16.01.2020 passed by Sessions Court in Criminal Appeal No.253 of 2018 confirming the judgment of the trial Court are set aside and the revision applicant is acquitted in C.C. No.1785/SS/2015.

iv. The revision applicant shall cooperate with the original complainant in withdrawal of the amount in each complaint.

v. Revision Applications as well as Interim Applications are disposed off accordingly.

(PRAKASH D. NAIK, J.)