

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

CRIMINAL WRIT PETITION NO. 3255 OF 2022

Mr. Arjun Jayant Vyas

Petitioner

Versus

The State of Maharashtra & Anr.

Respondents

Ms. Ruby Shaikh a/w Imran Shaikh Advocate for Appellant.

Ms. Radha Pal for Respondent No.2.

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

CORAM : PRAKASH D. NAIK, J.

DATE : 8th SEPTEMBER, 2022

PC :

1. The Petitioner is convicted for an offence under Section 138 of the Negotiable Instruments Act, vide judgment and order dated 6th December, 2019 passed by learned Metropolitan Magistrate, Mumbai. In C.C. No.4301168/SS/2009. The Petitioner has been sentenced to suffer simple imprisonment for six months and to pay fine of Rs.7,30,000/- within two months. It is further directed that out of above fine amount, an amount of Rs.7,20,000/- be paid to the complainant towards compensation as per section 357(1) of Cr.PC.

2. The Petitioner then preferred appeal before the Court of Sessions challenging the Judgment of conviction vide order dated 5th February, 2020 passed by the Sessions Court Borivali Division, Dindoshi, Mumbai in Miscellaneous Application No.34 of 2020. The

sentence of imprisonment was suspended on condition that the petitioner shall deposit 25% of the compensation amount before the Sessions Court within 60 days and furnished bail as per the order passed on Exhibit-4.

3. Learned Advocate for the Petitioner submitted that condition stipulated in order dated 5th February, 2020 was not complied. Hence, the appeal was dismissed for default on 5th January, 2022. The learned Advocate appearing for the Petitioner as well as Respondent No.2 submitted that the parties have arrived at amicable settlement and the entire amount towards compensation i.e. Rs.7,20,000/- has been parted to the original complainant. The receipt of the payment of Rs.7,20,000/- into the account of the complainant has been annexed to this Petition. The Petitioner is in custody from 30th June, 2022.

4. Learned counsel for the complainant submits that the complainant has received the entire amount of Rs.7,20,000/- and he has no objection for setting aside the Judgment of conviction.

5. Considering the fact that, parties have settled the dispute and the amount of compensation has been already transferred to the complainant, the relief prayed in this petition can be allowed.

ORDER

- i. Writ Petition No.3255 of 2022 is allowed.
- ii. The Judgment and Order dated 6th December, 2019 in C.C. No.4301168/SS/2009 convicting the Petitioner for an offence punishable under Section 138 of the Negotiable Instruments Act and sentencing him to suffer imprisonment for six months and to pay fine of Rs.7,20,000/- as well as the order dated 5th February, 2022 passed by the Additional Sessions Judge in Criminal M.A. 34 of 2020 dismissing the appeal is set aside and the petitioner is acquitted for an offence under Section 138 of the Negotiable Instrument Act.
- iii. Learned Advocate for the Respondent/Complainant shall file Vakalatnama within one week from today.
- iv. Petition stands disposed off.

(PRAKASH D. NAIK, J.)