

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO. 662 OF 2018
WITH
INTERIM APPLICATION NO. 1136 OF 2021**

M/s. Midas Developers Pvt. Ltd. And Anr. ...Applicants
Versus
M/s. Sun Developers And Anr. ...Respondents

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Mr. Mohd. Amin H. Solkar, Advocate for the Applicant in REVN Appln.

Mr. Rohan Karande i/by M/s. Divekar & Co. Advocate for the Applicant
in Interim Application.

Mr. S.R. Agarkar, APP for the Respondent – State.

CORAM : PRAKASH D. NAIK, J.
DATE : 20th SEPTEMBER, 2022.

PER COURT:

1. The revision applicants are convicted for offence under Section 138 of Negotiable Instrument Act vide Judgment and order dated 7th April, 2014 passed by learned Metropolitan Magistrate, 61st Court, Kurla, Mumbai in C.C. No. 61-00821/SS/2012 and sentenced to suffer simple imprisonment for three months. The original accused Nos. 1 and 2 were directed to pay compensation of Rs.2,72,01,250/-(Two Crores Seventy Two Lakhs One Thousand Two Hundred Fifty) to the complainant within a stipulated period. The Judgment of conviction was challenged before the Sessions Court by preferring Criminal Appeal No.414 of 2014. Vide Judgment and order dated 22nd November, 2018 the appeal was

dismissed and the Judgment of conviction was confirmed. Pursuant to the dismissal of appeal the accused has preferred the present revision application. During the pendency of the revision application the revision applicants had preferred application for suspension of sentence and grant of bail which has been allowed. The revision applicant has deposited total amount of Rs.1,36,00,000/-(One Crore Thirty Six Lakhs) before the trial Court. During the pendency of the revision application the parties have arrived at amicable settlement. They have executed the consent terms. In paragraph 4-a and 4-b, it is stated that both the parties had agreed that the amount deposited before the Court shall be allowed to be withdrawn by the Respondent/complainant with interest accrued, if any, on said deposits. The consent terms also refers to settlement in respect to other proceedings initiated by both the parties pending before this Court and Court of Metropolitan Magistrate at Kurla. The parties have agreed that they would withdraw the proceedings against each other. It is also agreed that in view of the consent terms executed between parties. The Judgment and order of conviction imposed against the revision applicant can be set aside and the revision applicant can be acquitted. Consent terms are taken on recorded and marked at 'x'

for identification.

ORDER

- i. Criminal Revision Application No. 662 of 2018 is allowed in accordance with consent terms.
- ii. Interim Application No. 1136 of 2021 is allowed. The applicant/complainant is permitted to withdraw the amount of Rs.1,36,00,000/-(One Crore Thirty Six Lakhs) deposited in the Court of learned Metropolitan Magistrate, 61st Court, Kurla, Mumbai with interest, if any, accrued on the said amount.
- iii. The Judgment and order dated 7th April, 2014 passed by learned Metropolitan Magistrate, 61st Court, Kurla, Mumbai in C.C. No. 61-00821/SS/2012 Judgment and order dated 22nd November, 2018 passed by the Sessions Court rejecting appeal are quashed and set aside.
- iv. Revision applicants are acquitted for offence under Sections 138 r/w 141 of the Negotiable Instruments Act. The sentence is set aside.
- v. Both parties shall adhere to the terms reflected in the consent terms.
- vi. The accused/Revision applicant shall co-operate with

the complainant in withdrawal of the amount deposited before the trial Court.

vii. In the event any original receipt of deposit of amount is not available. The revision applicant (Accused) shall file affidavit before trial Court in that regard. The trial Court is permitted to take on record photo copies of receipts of deposits, while allowing withdrawal of amount.

viii. The Revision Application and Interim Application stands disposed off.

(PRAKASH D. NAIK, J.)