

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

**Criminal Application (APPR) No. 102 of 2022
with
Criminal Revision Application No. 58 of 2022**

**Mr. Balbir S/o Motisingh Chauhan
Versus
The State of Maharashtra and another**

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri G.B.Sawal, Advocate for the appellant
Shri Sagar Ashirgade, APP for the Respondent/State
Shri Yash Kataria, Advocate for the Respondent
No.2/complainant.

**CORAM : ANIL S. KILOR, J.
DATED : 29th MARCH, 2022.**

In this revision, a challenged is raised to the judgment and order dated 5th March, 2022 passed by the Additional Sessions Judge, Chandrapur in Criminal Appeal No. 35 of 2011, confirming the conviction and sentence of six months simple imprisonment as imposed upon appellant Balbir Motisingh Chauhan, by the learned Chief Judicial Magistrate, Chandrapur vide judgment and order dated 8th February, 2011 in Summary Criminal Case No. 8330 of 2000 for the

offence punishable under Section 138 of Negotiable Instruments Act. The learned Additional Sessions Judge, further directed the appellant to pay a compensation of Rs.28,00,000/- to the complainant in default of which, he shall further undergo simple imprisonment for 45 days.

2. Today, the appellant and the respondent no.2 have jointly filed an application for compounding of offence in view of mutual settlement between the parties and thereby to acquit the appellant.

3. Both the parties and the respondent no.2 are present before the Court and they have been identified by their respective counsels. The application is signed by both the parties.

4. On a specific query put to the appellant and the respondent no.2, they have admitted that the matter has already been settled between them and the complainant has no objection for compounding the offence and acquitting the appellant.

5. The respondent no.2 has acknowledged the receipt of Rs.20,00,000/- out of Rs.21,00,000/-. So far as Rs. 1,00,000/- is concerned, it is submitted that the amount which was deposited before the Chief Judicial

Magistrate, Chandrapur may be permitted to be withdrawn by the respondent no.2/complainant.

6. In view of the fact that the dispute has been settled and respondent no.2 has received Rs.20,00,000/- and Rs.1,00,000/- which is deposited in the Court of Chief Judicial Magistrate, Chandrapur can be paid to the respondent no.2, I am of the opinion that the present application needs to be allowed.

7. At this stage, learned counsel for the appellant submits that in addition to Rs.1,00,000/-, the appellant has deposited Rs. 10,000/- on 24th October, 2016 and Rs.15,000/- on 14th November, 2016 before the Court of Additional Sessions Judge, Chandrapur and the same may kindly be permitted to be withdrawn by the appellant. In the said backdrop, I pass the following order.

ORDER

i. Criminal Application No. 102 of 2022 and Criminal Revision Application No. 58 of 2022 are allowed.

ii. The offence under Section 138 of Negotiable Instruments Act is hereby compounded and the impugned judgment and order dated 5th March,

2022 passed by the Additional Sessions Judge, Chandrapur in Criminal Appeal No. 35 of 2011 is hereby quashed and set aside.

iii. The Chief Judicial Magistrate, shall permit respondent no.2 / complainant, to withdraw Rs.1,00,000/- deposited by the appellant.

iv. The learned Sessions Judge is requested to permit the appellant to withdraw the amount of Rs. 10,000/- deposited on 24th October, 2016 and Rs.15,000/- deposited on 14th November, 2016 totalling to Rs.25,000/- along with interest, if any, accrued thereon.

v. Criminal Application and Revision Application are disposed of.

[ANIL S. KILOR, J.]

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by
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