

Andreza

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL REVISION APPLICATION NO.16 OF 2023
WITH
CRIMINAL MISC. APPLICATION NO.73 OF 2023

CRIMINAL REVISION APPLICATION NO.16 OF 2023
MOHAMAD NUMAN @ MOHAMMED NUMAN Y.
NAIK ... APPLICANT
Versus
GURUSWAMI BURLAKATTI AND ANR ... RESPONDENTS

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Mr. Pravin Chandrahas Naik, Advocate for the Applicant.
Mr. Kapil Kerkar, Advocate for Respondent no.1.
Mr. G. Nagvenkar, Additional Public Prosecutor for Respondent
no.2-State.

CORAM:- PRAKASH D. NAIK, J.

DATED :- 16th October, 2023

ORAL ORDER

Heard both sides.

2. The parties have resolved the dispute and executed Consent Terms and requested for compounding the matter.

3. The revision-applicant has been convicted for an offence under

Section 138 of the Negotiable Instruments Act, 1881, vide Judgment and Order dated 31.03.2023 passed by learned J.M.F.C., 'C' Court, Panaji in Criminal Case No. OA/530/NIA/2017/C and sentenced to simple imprisonment for fifteen days. The applicant is also directed to pay to the complainant, compensation of Rs.2 Lakhs under Section 357 of the Code of Criminal Procedure (Cr.P.C.) and in default of payment of compensation, the applicant is directed to undergo sentence of simple imprisonment for a period of five months. The judgment of conviction passed by the trial Court was challenged before the Sessions Court being Criminal Appeal no. 132 of 2023. Vide judgment and order dated 28.07.2023, the learned Sessions Judge, Panaji, dismissed the appeal and confirmed the trial Court's judgment of conviction.

3. The cheque amount was Rs.1,50,000/- and the additional compensation awarded by the trial Court was Rs.50,000/-.

4. Learned Advocate for the applicant and respondent submitted that the parties have amicably settled the dispute and executed Consent Terms dated 16.10.2023. The Consent Terms are tendered for consideration. It is taken on record and marked 'X' for identification.

5. The Consent Terms indicate that the parties have amicably settled the matter and the revision-applicant has no objection if the amount of Rs.2 Lakhs deposited by the applicant before this Court is released to

the respondent no.1-complainant. It is also stated that the matter be compounded and the judgment and order of conviction passed by both the Courts below be set aside and the revision-applicant be acquitted.

6. The complainant and accused are present in the Court.

7. Considering the factual aspect of the matter, there is no impediment in allowing the request for compounding the matter in accordance with the Consent Terms executed by the parties. The offence under Section 138 of the Negotiable Instruments Act can be compounded in accordance with Section 147 of the Negotiable Instruments Act.

ORDER

(i) Criminal Revision Application No. 16 of 2023 is allowed in view of the Consent Terms between the parties.

(ii) The impugned Judgment and Order dated 31.03.2023 passed by learned J.M.F.C., 'C' Court, Panaji in Criminal Case No. OA/530/NIA/2017/C and the impugned Judgment and Order dated 28.07.2023, passed by the learned Sessions Judge, Panaji, in Criminal Appeal no. 132/2023, are set aside and the revision-applicant is acquitted for the offence under Section 138 of the Negotiable Instruments Act.

(iii) The respondent-complainant is permitted to withdraw the amount of Rs. 2 Lakhs deposited by the applicant in this Court.

(iv) Criminal Revision Application no. 16 of 2023 and Criminal Misc. Application No.73 of 2023 stand disposed of.

PRAKASH D. NAIK, J.

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