

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION (STAMP) NO. 21148 OF
2022
[NOT ON BOARD. TAKEN ON BOARD]
WITH
INTERIM APPLICATION NO.4498 OF 2022
IN
CRIMINAL REVISION APPLICATION (STAMP) NO. 21148 OF
2022

Sachin Vishnu Sutar ...Applicant/ Original Accused
Versus
State of Maharashtra & Anr. ...Respondents

Mr. Gaurav Nankar i/b. Mr. Aditya S. Raktade for the Applicant
Mr. S. R. Agarkar, APP for Respondent No.1-State.
Mr. Ruturaj Pawar, for Respondent No.2.

CORAM : R. N. LADDHA, J.
DATE : 31 OCTOBER 2023

P.C. :-

Heard Mr Gaurav Nankar, the learned Counsel for the applicant/original accused; Mr S. R. Agarkar, the learned Additional Public Prosecutor for respondent No.1-State; and Mr Ruturaj Pawar, the learned counsel for respondent No.2/original complainant.

2. The applicant has filed the present revision application against the judgment and order dated 11 July 2019 passed by the learned Additional Sessions Judge, Kolhapur, in Criminal Appeal No.169 of 2016 and the judgment and order dated 20 September 2016 passed by the learned Judicial Magistrate First Class, 6th Court, Kolhapur, in Summary Criminal Case No.2878 of 2012 whereby the applicant/accused was convicted under Section 138 of the Negotiable Instruments Act, 1881 (for short 'NI Act').

3. The learned Counsel for the contesting parties jointly submitted that during the pendency of the present revision application, the applicant and respondent No.2 have amicably resolved their dispute and executed consent terms dated 19 July 2023 and have placed a copy thereof on record. The learned Counsel for respondent No.2 submitted that respondent No.2 has no objection to setting aside the concurrent judgment and order of conviction passed by the lower Courts. He also tendered a copy of his consent affidavit dated 31 October 2023. Respondent No.2 is present in person and is identified by his Counsel. When questioned, he confirmed he has no objection to setting aside the applicant's conviction. The parties agree to abide by the terms and conditions of the consent terms. They are identified by their respective counsel.

4. The learned APP for respondent No.1 submits that appropriate orders may be passed.

5. The offence under Section 138 of the NI Act is limited to two private parties involved in a commercial transaction. However, to ensure the credibility of transactions involving negotiable instruments, the legislature has provided for criminal prosecution for the dishonour of a cheque. It is a settled position in law that Section 138 primarily aims to ensure compensation to the complainant. The NI Act does not prohibit the parties from entering into a compromise, both during the pendency of the complaint and even after the conviction of the accused. Since the parties have amicably settled their dispute, this Court sees no difficulty in setting aside the applicant's conviction.

6. In these circumstances, the judgment and order dated 20 September 2016 passed by the learned Judicial Magistrate First Class, 6th Court, Kolhapur, in Summary Criminal Case No.2878 of 2012, convicting the applicant under section 138 of the NI Act, and the judgment and order dated 11 July 2019 passed by the learned Additional Sessions Judge, Kolhapur, in Criminal Appeal No.169 of 2016, confirming the conviction of the applicant, are set aside and the applicant/accused is acquitted subject to the payment of cost of Rs.5,000/- to the High Court Legal Services Authority, Mumbai within

two weeks from the date of uploading this order. The parties agree to abide by the terms and conditions mentioned in the consent terms. As agreed between the parties, the amount deposited by the applicant/accused in the trial Court is permitted to be released in favour of respondent No.2/complainant.

7. Accordingly, the present revision application is disposed of in the terms above. The pending interim application also stands disposed of.

R. N. LADDHA, J.