

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

CRIMINAL REVISION APPLICATION NO.84 OF 2023

WITH

**INTERIM APPLICATION NO.1294 OF 2023
IN
CRIMINAL REVISION APPLICATION NO.84 OF 2023**

WITH

**INTERIM APPLICATION NO.1295 OF 2023
IN
CRIMINAL REVISION APPLICATION NO.84 OF 2023**

Abdul Hameed S. Khan

.... Applicant

versus

M/s SJLT Spinning Mill Pvt. Ltd. & Anr.

.... Respondents

.....

- Mr. Satyam R. Gaud a/w Ms. Shikhani Shah, Advocate for Applicant.
- Mr. S. R. Gupta, Advocate for Respondent No.1.
- Mr. S. H. Yadav, APP for the State/Respondent No.2.

CORAM : SARANG V. KOTWAL, J.

DATE : 12th SEPTEMBER, 2023

P.C. :

1. The Applicant was the original accused in C.C.

No.7001142/SS/2016 in the Court of Metropolitan Magistrate,

70th Court, Mazgaon, Mumbai. The learned Judge vide his Judgment and Order dated 31/10/2018 convicted the Applicant for commission of offence punishable u/s 138 of Negotiable Instruments Act and sentenced him to suffer simple imprisonment for three months and to pay fine of Rs.8,80,000/- and in default to suffer further simple imprisonment for six months. Out of the fine amount, Rs.8,60,000/-, if recovered, were directed to be paid to the complainant/Respondent No.1 herein as compensation and rest of the fine amount was directed to be credited to the State after the Appeal period was over. The Applicant had challenged the said order before the learned Session Judge, Greater Mumbai, in Criminal Appeal No.791 of 2018. The said Appeal was dismissed vide Judgment and Order dated 20/03/2023. Thereafter the Applicant has preferred the present Criminal Revision Application.

2. Today, both the learned counsel stated that the matter is settled between the parties and they pray for compounding of the offence. The Applicant as well as the authorized

representative of the Respondent No.1 are present in the Court. They are identified by their respective counsel. Both the parties have submitted joint consent affidavit supported by the consent terms. It is mentioned in the affidavit that the complainant/Respondent No.1 has no objection if the offence is compounded. The Applicant has stated that he has no objection for withdrawal of the amount by the Respondent No.1, which is deposited by the Applicant in this Court.

3. Considering the settlement arrived at between the parties, in the interest of justice, the offence can be allowed to be compounded. Learned counsel for the Applicant submitted that the Applicant is a Senior Citizen. He has suffered heavy financial loss during spread of Covid-19. He somehow borrowed money from his relatives and friends to pay to the complainant. Therefore, some leniency may be shown in awarding the cost.
4. Considering these submissions and affidavit tendered in the Court, I am inclined to allow the compounding of offence.

Considering the submissions made by learned counsel for the Applicant, leniency can be shown to the Applicant in respect of depositing the cost.

5. Hence, the following order :

ORDER

- (i) The offence is permitted to be compounded. The Judgment and Order dated 31/10/2018 passed by the Metropolitan Magistrate, 70th Court, Mazgaon, Mumbai, in C.C. No.7001142/SS/2016 as well as the Judgment and Order dated 20/03/2023 passed by the Sessions Judge, Greater Mumbai, in Criminal Appeal No.791 of 2018, are set aside.
- (ii) The Applicant is acquitted.
- (iii) The Respondent No.1 is permitted to withdraw the amount which the Applicant has deposited before this Court in connection with the present Criminal Revision Application.

- (iv) The Applicant shall pay amount of Rs.25,000/- to the Legal Services Authority of this Court within a period of 8 weeks from today.
- (v) The non-bailable warrant pending against the Applicant, issued by the Appellate Court, is set aside.
- (vi) The present Criminal Revision Application and all the companion applications pending in this Revision Application are disposed of.

(SARANG V. KOTWAL, J.)