

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

CRIMINAL REVISION APPLICATION NO.83 OF 2023

WITH

**INTERIM APPLICATION NO.1292 OF 2023
IN
CRIMINAL REVISION APPLICATION NO.83 OF 2023**

WITH

**INTERIM APPLICATION NO.1293 OF 2023
IN
CRIMINAL REVISION APPLICATION NO.83 OF 2023**

Abdul Qayyum A. H. Khan Applicant

versus

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

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- 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 No.2 and was described as the proprietor of the Accused No.1 M/s. Metro

Textiles, before the Metropolitan Magistrate, 70th Court, Mazgaon, in CC No.7001140/SS/2016. 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.6,90,000/- and in default to suffer further simple imprisonment for six months. Out of the fine amount, if recovered, Rs.6,70,000/- was directed to be paid to the complainant i.e. the Respondent No.1 in the present Criminal Revision Application as compensation. Remaining fine amount of Rs.20,000/- was directed to be credited to the State. The case involved dishonour of four cheques. Three cheques were for Rs.1,47,000/- each and one cheque was for Rs.1,45,000/-. The said Judgment and Order was challenged before the Court of Sessions, Greater Mumbai, vide Criminal Appeal No.789 of 2018. The learned Sessions Judge vide his Judgment and Order dated 20/03/2023 dismissed the Appeal. The Applicant has thereafter preferred the present Criminal Revision Application.

2. Today, the Applicant and the authorized representative of the Respondent No.1 are present before the Court. They are identified by their respective counsel. The parties have filed joint consent affidavit along with the consent terms. Both the learned counsel submit that the matter is settled between the parties. In paragraph No.12 of the affidavit, the complainant i.e. the Respondent No.1 has specifically stated that the complainant has no objection to compound the present matter and the complainant does not wish to proceed with the present matter since the matter is amicably settled.
3. Both the learned counsel submitted that the affidavit is supported by the consent terms. In paragraph No.7 of the affidavit the Applicant has stated that the amount of Rs.3,71,000/- which was already deposited by the Applicant before this Court, can be withdrawn by the Respondent No.1 and that the Applicant does not have any objection for such withdrawal.

4. Considering the joint consent affidavit, the consent terms and the submissions made by both the learned counsel in the presence of the contesting parties, permission can be granted to compound the said offence.
5. Learned counsel for the Applicant submitted that the Applicant has suffered irreparable financial loss during spread of Covid-19 and therefore leniency may be shown in awarding the cost. Since the matter is already settled and taking into account submissions made by learned counsel for the Applicant, I am inclined to show leniency in directing the payment of cost.
6. Hence, the following order :

ORDER

- (i) Permission is granted to compound the offence which is the subject matter of the case. The Judgment and Order dated 31/10/2018 passed by the Metropolitan Magistrate, 70th Court,

Mazgaon, Mumbai, in C.C. No.7001140/SS/2016 as well as the Judgment and Order dated 20/03/2023 passed by the Sessions Judge, Greater Mumbai, in Criminal Appeal No.789 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.
- (iv) The Applicant shall pay Rs.25,000/- to the Legal Services Authority of this Court within a period of 8 weeks from today.
- (v) The non-bailable warrant which is still pending against the Applicant in connection with the present case, issued by the Appellate Court, is set aside.
- (vi) Criminal Revision Application and all the companion applications pending in this Revision Application, are disposed of.

(SARANG V. KOTWAL, J.)