

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

CRIMINAL REVISION APPLICATION NO.80 OF 2023

WITH

**INTERIM APPLICATION NO.1288 OF 2023
IN
CRIMINAL REVISION APPLICATION NO.80 OF 2023**

WITH

**INTERIM APPLICATION NO.1286 OF 2023
IN
CRIMINAL REVISION APPLICATION NO.80 OF 2023**

Abdul Hameed S. 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 in C.C.

No.7001141/SS/2016, before the Metropolitan Magistrate, 70th

Court, Mazgaon, Mumbai. At the conclusion of the trial, the Applicant was convicted for commission of offence punishable u/s 138 of Negotiable Instruments Act. He was sentenced to suffer simple imprisonment for three months and to pay fine of Rs.14,25,000/- and in default to undergo further simple imprisonment for six months. Out of the fine amount, if recovered, Rs.14,00,000/- were directed to be paid to the complainant i.e. the Respondent No.1 as compensation and rest of the fine i.e. Rs.25,000/- was directed to be credited to the State.

2. The Applicant had challenged this order before the learned Sessions Judge, Greater Mumbai, vide Criminal Appeal No.790 of 2018. The learned Sessions Judge vide his Judgment and Order dated 20/03/2023 dismissed the Appeal. After that the Applicant has preferred the present Criminal Revision Application. The subject matter of the trial was 8 cheques, totalling to Rs.14,10,000/-.

3. Today, both the learned counsel for the contesting parties state that the matter is settled between the parties. The Applicant as well as the authorized representative of the Respondent No.1 are present before the Court. They are identified by their respective counsel. The parties have tendered a joint consent affidavit and consent terms. The Respondent No.1/the original complainant has made a categorical statement in the affidavit that the Respondent No.1/complainant has no objection for compounding the offence, since the matter is settled between the parties.
4. Considering the settlement arrived at between the parties, the prayer for compounding the offence can be granted.
5. 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 has borrowed money from his relatives and friends for settling the matter. He submitted that some leniency may be shown in the matter of directing the Applicant to deposit the cost.

6. Considering these submissions, I am inclined to show leniency to the Applicant in directing the payment of cost.

7. Hence, the following order :

ORDER

- (i) Permission to compound the offence is granted. Consequently, the Judgment and Order dated 31/10/2018 passed by the Metropolitan Magistrate, 70th Court, Mazgaon, Mumbai, in C.C. No.7001141/SS/2016 as well as the Judgment and Order dated 20/03/2023 passed by the Sessions Judge, Greater Mumbai, in Criminal Appeal No.790 of 2018, are set aside.
- (ii) The Applicant is acquitted.
- (iii) The Applicant shall pay cost of Rs.1,00,000/- to the Legal Services Authority of this Court within a period of 8 weeks from today.

- (iv) The non-bailable warrant issued against the Applicant by the Appellate Court, is set aside.
- (v) Criminal Revision Application and all the companion applications pending in this Revision Application are disposed of.

(SARANG V. KOTWAL, J.)