

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

CRIMINAL REVISION APPLICATION NO.153 OF 2023

Deepak Subhash Fatale

...Applicant

Versus

Radha Textile Corporation (H.U.F.) & Anr

...Respondents

Mr. Trupti A. Bharadi, Advocate for Applicant.

Mr. Pratik G. Tare, Advocate for Respondent No.1.

Mr. S.H. Yadav, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 11th SEPTEMBER 2023

PC :

1. The Applicant was the original Accused in Summary Criminal Case No.1123 of 2017 before the Judicial Magistrate First Class, Court No.2, Ichalkaranji, district Kolhapur. At the conclusion of the trial Court, the learned Magistrate vide his judgment and order dated 10th March 2021 convicted the Applicant for commission of offence punishable under Section 138 of the Negotiable Instruments Act, 1881. He was sentenced to suffer simple imprisonment for one year and to pay the compensation amount of Rs.2,43,100/- to the Complainant-Respondent No.1 herein and in default of payment of

compensation, he was directed to suffer simple imprisonment for three months. This order was challenged by the Applicant in the Sessions Court Ichalkaranji district Kolhapur vide Criminal Appeal No.19 of 2021. The learned Additional Sessions Judge Ichalkaranji, vide his judgment and order dated 17th January 2023 dismissed the Appeal and upheld the Applicant's conviction.

2. At this stage, both the parties have settled their disputes and the Respondent No.1 i.e., the original Complainant has tendered an affidavit before this Court regarding this settlement. He has stated in the affidavit that on payment of Rs.1,70,000/- the matter was settled and he did not have any grievance against the Applicant and that he wished to withdraw all the allegations against the Applicant. The affidavit is taken on record. Both the parties are present in the Court and they are identified by their respective Counsel.

3. The cheque amount was for Rs.1,21,550/-. Considering the settlement between the parties, the offence can be permitted to be compounded. On the question of payment of cost, both learned

Counsel jointly submitted that both the parties are financially poor and their business suffered during the spread of Covid-19 pandemic, therefore, leniency be shown to them. Learned Counsel for the Applicant submitted that with lot of efforts the matter could be settled and the Accused could arrange the amount which was used for settlement. Considering these submissions, some leniency can be shown to the Applicant.

4. Hence, the following order:

O R D E R

- i) The offence is allowed to be compounded.
- ii) The judgment and order dated 10th March 2021 passed by the J.M.F.C. Court No.2, Ichalkaranji district Kolhapur in Summary Criminal Case No.1123 of 2017, is set aside. Similarly, the order dated 17th January 2023 passed by the Additional Sessions Judge, Ichalkaranji in Criminal Appeal No.19 of 2021, is set aside.

iii) Consequently, the Applicant is acquitted from the charges of commission of offence punishable under Section 138 of the N.I. Act which is the subject matter of these proceedings.

iv) The Applicant shall pay an amount of Rs.5,000/- (Rupees Five Thousand only) to the Legal Services Authority of this Court within a period of four weeks from today.

(SARANG V. KOTWAL, J.)