

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

CRIMINAL REVISION APPLICATION NO.234 OF 2021

WITH

**INTERIM APPLICATION NO.2861 OF 2021
IN
CRIMINAL REVISION APPLICATION NO.234 OF 2021**

Sanket Subhash Naik	 Applicant
versus	
The State of Maharashtra & Anr.	 Respondents
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- Mr. Naina P. Boraste a/w Shubham Jangam a/w G. R. Agrawal, Advocate for Applicant.
- Mr. Jayendra Khairnar a/w Mufeez Ansari, Advocate for Respondent No.2.
- Mr. Arfan Sait, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 11th OCTOBER, 2023

P.C. :

1. The Applicant was the original accused in Summary Criminal Case No.737 of 2017 before the Judicial Magistrate First Class, Nashik Road. The Respondent No.2 is the original complainant. The prosecution was launched for dishonour of cheque dated 28/04/2017 for Rs.1,00,000/-. The transaction

was in respect of the leave and license agreement and the cheque was given as part payment in connection with that agreement. The Respondent No.2 was the owner of the premises.

2. At the conclusion of the trial, the Applicant was convicted for commission of offence punishable u/s 138 of the Negotiable Instruments Act, who was sentenced to suffer rigorous imprisonment for six months and was directed to pay compensation of Rs.1,20,000/- and in default to suffer simple imprisonment for three months.
3. The Applicant challenged that order by way of Criminal Appeal No.94 of 2020 before the Additional Sessions Judge, Nashik,, who passed order dated 18/09/2021 and dismissed the Appeal. Therefore, the Applicant has preferred the present Criminal Revision Application.
4. There were other similar proceedings between the Applicant and the complainant as well as between the Applicant and the complainant's son. In all these connected matters, the

Applicant was convicted and was directed to pay compensation. The Applicant has deposited the consolidated amount before this Court. In this background learned counsel for the Applicant has prayed for compounding of the offence without entering into the merits of the matter.

5. Learned counsel for the original complainant i.e. Respondent No.2 herein has filed an affidavit. It is mentioned in that affidavit that the Applicant has deposited the entire compensation amount and the complainant was permitted to withdraw that amount by previous orders. It is specifically mentioned in the affidavit that the complainant did not want to proceed against the Applicant and the offence be permitted to be compounded. The complainant has prayed for permission to withdraw the compensation amount deposited in this Court.
6. Considering that the matter is settled between the parties, permission can be granted to compound the offence and the Respondent No.2 can be permitted to withdraw the compensation amount.

7. When the Court raised the question of deposit of cost, learned counsel submitted that his business has badly suffered and he is in a bad financial condition. With great difficulty, he could arrange to deposit the compensation amount. He further submitted that his father has recently undergone a brain surgery, that has caused heavy expenses. Therefore, the Applicant is in no position to pay the cost as he would require some more funds for post-operative care and treatment of his father.
8. Considering these submissions, on humanitarian grounds, I am not imposing any cost on the Applicant.
9. Hence, the following order :

ORDER

- (i) The order dated 17/03/2020 passed by the Judicial Magistrate First Class, Nashik Road, in Summary Criminal Case No.737 of 2017 as well as the order dated 18/09/2021 passed by the Additional Sessions Judge, Nashik, in Criminal Appeal No.94 of 2020 are set aside.

- (ii) The offence is permitted to be compounded.
- (iii) The Applicant is acquitted.
- (iv) The Respondent No.2 is permitted to withdraw the amount of compensation that is deposited by the Applicant before this Court by following due procedure and rules.
- (v) With these directions, the Revision Application along with its Interim Application are disposed of.

(SARANG V. KOTWAL, J.)