

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

CRIMINAL REVISION APPLICATION NO.233 OF 2021

WITH

**INTERIM APPLICATION NO.2860 OF 2021
IN
CRIMINAL REVISION APPLICATION NO.233 OF 2021**

Sanket Subhash Naik

.... Applicant

versus

The State of Maharashtra & Anr.

.... Respondents

.....

- 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 is the original accused in Summary Criminal Case No.1089 of 2017 before the Judicial Magistrate First Class, Nashik Road. He was facing the prosecution for dishonour of cheque dated 16/06/2017 for Rs.1,00,000/-. The

cheque was given by way of part payment in respect of leave and license agreement between the Applicant and the Respondent No.2, who is the original complainant. 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 vide order dated 17/03/2020. The Applicant 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.96 of 2020 before the Additional Sessions Judge, Nashik, who passed order dated 18/09/2021 dismissing the Appeal. Therefore, the Applicant has preferred the present Criminal Revision Application.
4. There were other proceedings between the Applicant and the Respondent No.2 as well as between the Applicant and

the Respondent No.2's son of similar nature. In all these connected matters, the Applicant has deposited the consolidated amount before this Court. In view of this, the parties have agreed to settle the matter. Learned counsel for the Applicant has prayed for permission to compound the offence without entering into the merits of the matter.

5. Learned counsel for the Respondent No.2 has filed an affidavit. In the said affidavit, the Respondent No.2 has accepted that the Applicant has deposited the entire compensation amount and in the past by previous orders the Respondent No.2 was permitted to withdraw the said compensation amount. The Respondent No.2 has also sought permission to compound offence and has prayed for permission to withdraw the compensation amount, which is deposited in this Court.

6. Considering that the matter is settled between the parties, permission can be granted to compound the offence and further permission can be granted to the Respondent No.2 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.1089 of 2017 as well as the order dated 18/09/2021 passed by

the Additional Sessions Judge, Nashik, in Criminal Appeal No.96 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, which the Applicant has deposited in this Court, as per rules and procedure.
- (v) With these directions, the Revision Application along with its Interim Application are disposed of.

(SARANG V. KOTWAL, J.)