



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL REVISION NO. 43/2018

Sau. Anagha Anil Joshi .Vs. Vasanta Dhannu Rathod and anr.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. K. S. Narwade, Advocate for applicant.
Mr. A. R. Chutke, A.PP for non applicant no.1.
Ms S. S. Gandhi, Advocate for non applicant no.2.

CORAM : ANIL L. PANSARE, J.

DATE : 22.12.2023

Heard.

Learned counsel appearing for the parties have tendered across the bar, an application seeking the compounding of the offence on the ground that they have arrived at an amicable settlement outside the Court. The terms of settlement have been annexed along with the application. The amount of cheque, in this case, is Rs.25,000/-. The applicant/original accused has been convicted for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 and sentenced to undergo imprisonment for three months with a further direction to pay compensation of Rs.25,000/- to the non applicant no.1/original complainant.

The parties have settled the dispute and the applicant has paid to the non applicant no.1 Rs.1,00,000/- towards full and final settlement of the amount. As regards 15% of the amount of cheque, which the applicant will have to pay in terms of the judgment passed by the Supreme Court in *Damodar S. Prabh Vs. Sayed Babalal H.* reported in *AIR 2010 SCC 1907*, the

counsel for the applicant submits that the applicant shall pay the said amount to the High Court Legal Services Sub Committee, Nagpur, during the course of the day.

Learned counsel for the applicant further submits that the applicant has deposited an amount of Rs.12,500/- before the Sessions Court, Pusad. The applicant may be allowed to withdraw the said amount with interest accrued thereon.

The parties are present before the Court. I have interacted with them. It appears that they have willingly arrived at the terms of settlement.

In view thereof, following order is passed.

ORDER

- (i) The revision application is allowed.
- (ii) The offence under Section 138 of the Negotiable Instruments Act, 1881 stands compounded subject to the applicant depositing costs of 15% of the cheque amount, which is Rs.3,750/-, with the High Court Legal Services Sub Committee, Nagpur, during the course of the day.
- (iii) The judgment and order dated 20.11.2017 passed by Additional Sessions Judge, Pusad in Criminal Appeal No.43/2009, so also judgment and order dated 13.11.2009 passed by learned Judicial Magistrate First Class (Court No.1), Pusad in S.C.C.No.459/2005 are quashed and set aside.
- (iv) Applicant Sau. Anagha Anil Joshi stands acquitted of the offence punishable under Section 138 of the Negotiable Instruments Act, 1881.

(v) The applicant is entitled to withdraw the amount of Rs.12,500/- deposited with the Sessions Court, Pusad. The applicant is at liberty to file appropriate application before the Sessions Court, Pusad for withdrawal of this amount along with accrued interest thereon. If such an application is filed, it shall be disposed of by the Sessions Court, in accordance with the Rules.

(Anil L. Pansare, J.)

Kahale