

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 107 OF 2018

Ramdas Shridhar Gite,
Age 35 yrs, Occ. Business,
r/o Panchawati Public Library
Ayodanagar Link Road, Kedgaon,
Tq. & Dist. Ahmednagar.

..Applicant

VERSUS

Ganesh Dattatray Bhong,
Age 33 yrs, Occ. Business,
r/o A-10, Behind Chatrapati Bajaj,
Dhoot Show room, Vinayaknagar,
Pune Road, Ahmednagar,
Dist. Ahmednagar.

..Respondent

...

Advocate for Applicant : Mr. Pankaj A. Bharad h/f Mr. Pawar P.S.

Advocate for Respondent : Mr. Bedre Vinayak Sudhakar

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CORAM : S.G. MEHARE, J.

DATED : AUGUST 05, 2024

ORDER :-

1. Heard learned counsel for the applicant and learned counsel for the respondent.
2. The applicant has been produced from jail before the Court for non-bailable warrant.
3. He has preferred revision against the judgment and order convicting him for one month and compensation of Rs.30,000/-.
4. The applicant has deposited Rs.30,000/- during the course of appeal and prayed to reduce the sentence. However, the

Court recorded the finding that the defence of the applicant was false and he dragged the litigation for three years. Recording this finding, the First Appellate Court declined to reduce the corporal sentence and dismissed the appeal.

5. This revision is pending since 2018. Nobody is paying attention towards the revision. Hence, warrant was issued against him.

6. The learned counsel for the applicant would submit that the applicant is in custody since last three days. The sole purpose of refund of the cheque amount has been served long back. Therefore, a lenient view may be taken and his conviction for one month may be reduced to till rising the Court.

7. Learned counsel for the respondent submits that his conduct was material. Though the applicant deposited the compensation amount, he is not entitled to reduction of the sentence.

8. Learned counsel for the applicant submits that the applicant is a tailor by profession. He has family responsibilities. Nothing is to be recovered from him and no purpose would be served sending him to suffer imprisonment for one month. The amount was also so small. The cheque amount was only Rs.20,000/- and the complainant was compensated by Rs.10,000/- more.

9. It seems that the applicant and the respondent/complainant had some transaction. The cheque was issued. It was

dishonored. The charges were proved against the applicant. Belatedly, he deposited the entire compensation amount with the Appellate Court.

10. Counsel for the respondent has instructions that the complainant never applied to withdraw that amount.

11. Considering the profession of the applicant, small amount of compensation and bonafide deposit of the compensation amount with the Appellate Court long back in 2015, the Court is of the view that the corporal sentence to suffer S.I. for one month would not benefit the complainant or anybody. He has been produced under custody and for all day, he was before the Court. So, in view of the fact and his conduct, the Court is of the view that the prayer of the learned counsel for the applicant to reduce the sentence is acceptable. Hence, the following order :

ORDER

- (i) Revision Application is partly allowed.
- (ii) Both impugned judgments and orders of the learned Judicial Magistrate First Class, (Court No.8), Ahmednagar in S.T.C. No.1340 of 2015 dated 06.11.2015 and the learned Additional Sessions Judge, Ahmednagar in Criminal Appeal No.262 of 2015 dated 06.04.2018 holding the applicant guilty for the offence punishable under Section 138 of the Negotiable Instruments Act are confirmed.

(4)

- (iii) However, the corporal sentence to suffer S.I. for one month is reduced to the period he has undergone under non-bailable warrant.
- (iv) His bail bonds are cancelled and surety bonds stand discharged.
- (v) The respondent/complainant is at liberty to withdraw the amount deposited with the Trial Court.
- (vi) Record and proceeding be returned to the learned Trial Court.
- (vii) The constable producing the applicant is directed to release him.

(S.G. MEHARE, J.)