

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

**INTERIM APPLICATION NO. 1691 OF 2024
ALONGWITH
INTERIM APPLICATION NO. 1692 OF 2024
IN
REVISION APPLICATION (ST) NO. 8845 OF 2024**

Suresh Maruti Yadav

...Applicant

vs.

Bhagwan Namdev Sutar

...Respondent

Mr. Vikas Kolekar a/w Ms. Monika Dushnikar	Advocate for the Applicant
Mr. V. N. Sagare	APP for the Respondent-State
Mr. Sanchit S. Chavan	Advocate for Respondent No. 2- Complainant

CORAM : S. M. MODAK, J.

DATE : 22nd APRIL 2024

P. C. :-

1. Heard learned Advocate for the Applicant-accused.
2. He is convicted by the Court of the JMFC, Vita, Sangli on 14/05/2009 for the offence punishable under Section 138 of the Negotiable Instruments Act. The sentence is simple imprisonment for four months and compensation of Rs. 50,000/-. He filed an appeal

before the Court of the Additional Sessions Judge, Sangli. It was dismissed on 26/07/2019. The conviction and the sentence both are maintained.

3. During pendency of the appeal, the Applicant-accused has deposited Rs. 24000/- and the Appellate Court has referred about the same in para no. 26 of its judgment. Now the amount remained to be paid is Rs. 26000/-.

4. Today, the revision is coming before me for the first time. Now the Parties have settled the dispute and Respondent – Complainant has appeared on its own. He is present today in the Court. He has filed notarized affidavit. It is taken on record and marked as ‘Annexure-X’.

5. Learned Advocate Shri Chavan undertakes to file Vakalatnama in the Office within two days. He is already having that Vakalatnama.

6. The affidavit mentions the following facts:-

- a) He has settled the dispute and he is consenting for condonation of the delay and allowing the revision.
- b) He admits about deposit of Rs. 24000/-.
- d) He admits receipt of remaining amount of Rs. 26000/- in cash.

7. Wherein the matter is called in the morning session, it was told to the learned Advocates that they are settling the dispute, they have to charges as per the observation in case of *Damodar S. Prabhu Vs. Sayed Babalal H* in Criminal Appeal No. 963 of 2010, dated 03/05/2010.

Later on

8. Learned Advocate for the Applicant after taking instructions from the son of the Applicant submitted that his client is ready to deposit 15% of the cheque amount of Rs. 50,000/-. It comes to Rs. 7,500/-. There is a delay in filing the revision.

9. For the reasons stated in the application, the delay is condoned and the revision be numbered.

10. When Parties have settled the dispute among themselves, I do not find any reason to maintain the conviction and sentence. Even if the Applicant will ask to undergo the sentence, interest of none of the Parties are going to be protected. He is already sent to the Jail.

11. There is separate interim application filed for suspension of the sentence i.e. Interim Application No. 1692 of 2024.

12. In view of the above facts, the following Order is passed :-

ORDER

- (i) Delay is condoned.
 - (ii) Interim application No. 1691 of 2024 is disposed of.
 - (iii) In view of the settlement, the conviction for the offence punishable under Section 138 of the Negotiable Instruments Act imposed by the Court of Judicial Magistrate First Class, Vita and confirmed by the Court of the Additional Sessions Judge, Sangli vide Appeal No. 160 of 2009 is set aside.
 - (iv) The Applicant-Suresh Maruti Yadav undergoing in Summary Criminal Case No. 635 of 2008 for the offence punishable under Section 138 of the Negotiable Instruments Act be released from Jail, if not required in any other case.
 - (v) The Applicant to deposit Rs. 7,500/- with MSLSA within two weeks from today.
13. Interim Application No. 1692 of 2024 is disposed of.
14. Revision application be fixed for compliance on **08th May 2024**.
15. Parties to act upon an authenticated copy of this Order.

[S. M. MODAK, J.]