

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

**INTERIM APPLICATION NO. 1826 OF 2024
ALONGWITH
INTERIM APPLICATION NO. 1827 OF 2024
IN
REVISION APPLICATION (ST) NO. 9099 OF 2024**

Suman Appaso Lokare

...Applicant

vs.

Housabai Shamrao Kore And
Anr.

...Respondents

Mr. Pratik G. Tare a/w Mr. Sachin Y. Mane	Advocate for the Applicant
Ms. Sakshi S. Kadam	Advocate for the Respondent No. 1
Mr. H. J. Dedhia	APP for Respondent-State

CORAM : S. M. MODAK, J.

DATE : 25th APRIL 2024

P.C. :-

1. The Applicant-accused is sent to the jail for undergoing the sentence imposed by the Court of JMFC, Ichalkaranji. She fell sick in the jail. That is why urgent circulation is sought. One more reason is the settlement with the Complainant. That is why, it is taken on production board.

2. Heard learned Advocate Shri Tare for the Applicant, learned Advocate Ms. Kadam for Respondent No. 1 and learned APP Shri Dedhia for Respondent-State.

3. The Court of the JMFC, Ichalkaranji convicted the Applicant for the offence punishable under Section 138 of the Negotiable Instruments Act. The sentence is simple imprisonment for six months and compensation of Rs. 1,60,000/-. It is double amount of the cheque. The cheque was issued for an amount of Rs. 80,000/-. She preferred an appeal, however she could not pursue it and it was dismissed on 26/10/2023. She approached this Court, when she was already sent to jail.

4. There is delay of 85 days in preferring the revision application. As said above, the Applicant has settled the dispute with the Complainant. She is present today in the Court. She has waived the notice. Let her Advocate file Vakalatnama in the Office within three days. She is already having Vakalatnama. The affidavit contains the terms of the settlement.

5. For the reasons stated in the application, delay is condoned and interim Application No. 1827 of 2024 is disposed of.

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6. As said above, the Parties have settled the dispute. By way of an affidavit, the Complainant-Respondent has affirmed the terms of the settlement. They are as follows:-

- (i) Instead of compensation of Rs. 1,60,000/-, she has agreed to receive an amount of Rs. 80,000/-.
- (ii) She has also received Rs. 80,000/- by way of cash on 13/03/2024.
- (ii) She has made it clear that she does not want to prosecute further.
- (iv) And in view of the settlement, she has consented for prayer for acquittal of the Applicant.

7. It is true that if the Parties have settled the dispute. As per the judgment in case of *Damodar S. Prabhu Vs. Sayed Babalal H* in Criminal Appeal No. 963 of 2010, dated 03/05/2010, the Hon'ble Supreme Court has directed the Parties to pay 15% of the cheque amount. It comes to Rs. 12,000/-. Her advocate explained the financial difficulties of his client. With all possibilities, she has raised an amount of Rs. 80,000/-. Learned Advocate for the Respondent has consented. In view of the current situation, let the Applicant to deposit an amount of Rs. 5,000/- with the Office of MSLSA.

8. When Parties have settled the dispute, Court has to verify whether the Parties have consented for settlement or not. As the Applicant is in jail, she is not present. She is represented by her advocate. I do not find any reason to refuse the settlement and conviction needs to be set aside.

9. Hence the Order:-

ORDER

- (i) Delay is condoned.
- (ii) Interim Application No. 1827 of 2024 is disposed of.
- (iii) Settlement in between the Parties is recorded.
- (iv) The conviction of the Applicant-Suman for the offence punishable under Section 138 by the Court of JMFC, Ichalkaranji, in S.C.C. 2621 of 2019 and confirmation in Criminal Appeal No. 97 of 2022 passed by Additional Sessions Judge, Ichalkaranji are set aside.
- (v) Let the Applicant be released from jail on condition to deposit Rs. 5,000/- towards the charges with the Office of the MSLSA.
- (vi) She be released from jail if not required in any other case.

10. Interim Application No. 1826 of 2024 is disposed of.
11. Revision Application is disposed of accordingly.
12. Parties to act upon an authenticated copy of this order.

[S. M. MODAK, J.]