

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

CRIMINAL REVISION APPLICATION NO. 105 OF 2022

Vijay Narayan Chaudhary ...Applicant
Versus
Sushma Rajesh Jain And Anr. ...Respondents

WITH

INTERIM APPLICATION NO. 1382 OF 2023

Mrs. Sushma Rajesh Jain Thr.
POA Holder Sudhir Thakur ...Applicant
Versus
Shri Vijay Narayan Chaudhary And Anr. ...Respondents

WITH

CRIMINAL REVISION APPLICATION NO. 106 OF 2022

Vijay Narayan Chaudhary ...Applicant
Versus
M/s Suraaj Linens Pvt. Ltd. And Anr. ...Respondents

WITH

INTERIM APPLICATION NO. 1380 OF 2023

M/s Suraaj Linens Pvt. Ltd. ...Applicant
Versus
Vijay Narayan Chaudhary And Anr. ...Respondents

WITH

CRIMINAL REVISION APPLICATION NO. 107 OF 2022

Vijay Narayan Chaudhary ...Applicant
Versus
M/s Atit Textile Industries Pvt. Ltd. And Anr. ...Respondents

WITH

INTERIM APPLICATION NO. 1381 OF 2023

Encasa Homes Pvt. Ltd.
Previously Known As
M/s Atit Textile Industries Pvt. Ltd. ...Applicant
Versus
Vijay Narayan Chaudhary And Anr. ...Respondents

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Mr. Ateet Shirodkar, Advocate for the Applicant in all Applications.

Mr. Sunil Lalla, Advocate for Respondent No.1/Original Complainant & Applicant in Interim Applications.

Mr. Arfan Sait, APP for the Respondent – State.

CORAM : PRAKASH D. NAIK, J.

DATE : 1st FEBRUARY, 2024.

P.C.:

1. Heard both sides.
2. The parties have settled the disputes and the consent affidavits are filed. It is jointly submitted that in view of the settlement the revision applications may be allowed.
3. Criminal Revision Application No.105 of 2022 relates to the Judgment and Order dated 28th October, 2017 passed by the learned Metropolitan Magistrate, 7th Court, Dadar, Mumbai in C.C. No.406/SS/2014 wherein the Accused No.2 Vijay Chaudhary proprietor of Accused No.1 M/s. Om Enterprises is convicted for offence under Section 138 of Negotiable Instruments Act, 1881 (for short 'N.I. Act'.) and sentenced to suffer simple imprisonment of three months and to pay compensation of Rs.3,81,000/-. The Judgment of conviction was challenged before the Sessions Court by preferring Criminal Appeal No.732 of 2017. Vide Judgment and Order dated 18th February, 2022, the Appeal was dismissed.

4. Criminal Revision Application No.106 of 2022 is preferred by the Applicant challenging the Judgment and Order dated 9th January, 2018 passed by learned Metropolitan Magistrate, 7th Court, Dadar, Mumbai in C.C. No.3140/SS/2013 wherein the Accused No.2 Vijay Chaudhary proprietor of Accused No.1 M/s. Om Enterprises is convicted for offence under Section 138 of N.I. Act and sentenced to suffer simple imprisonment for three months and also ordered to pay compensation of Rs.4,08,000/- to the complainant. The Judgment of conviction was challenged before the Sessions Court in Criminal Appeal No.77 of 2018. The said Appeal has been dismissed vide Judgment and Order dated 18th February, 2022.

5. Criminal Revision Application No.107 of 2022 pertains to the Judgment and Order dated 9th January, 2018 passed by learned Metropolitan Magistrate, 7th Court, Dadar, Mumbai in C.C. No.4147/SS/2013 wherein the revision applicant proprietor of Accused No.1 M/s. Om Enterprises is convicted for offence under Section 138 of N.I. Act and sentenced to suffer simple imprisonment of three months. The Accused was further ordered to pay compensation of Rs.4,08,000/-. The said Judgment was challenged before the Sessions Court by preferring Criminal Appeal

No.78 of 2018 vide Judgment and Order dated 18th February, 2022, the Appeal was dismissed and the Judgment of the trial Court was confirmed.

6. The affidavits of consent were filed by both the parties. It is agreed that the conviction be set aside in view of the settlement between them. The Accused has made payment of Rs.50,000/- in respect to the conviction in each revision application. It is agreed that the amount deposited before the trial Court as well as this Court during the pendency of the appeal and revision application may be allowed to be withdrawn by the complainant.

7. The consent affidavits of the Applicant and Respondent No.1 are placed on record. The Affidavits indicate that the parties have resolved the disputes and the offence can be compounded. The amount deposited by the revision applicant before the trial Court as well as this Court as mentioned in the consent affidavits is allowed to be withdrawn by the complainant. The name of the complainant company which is subject matter of Criminal Revision Application No.107 of 2022 was changed to Encasa Homes Pvt. Ltd.

8. Considering the aforesaid circumstances, I pass the following order;

ORDER

- i. Criminal Revision Application No.105 of 2022 is allowed;
- ii. The Judgment and Order dated 28th October, 2017 passed by the learned Metropolitan Magistrate, 7th Court, Dadar, Mumbai in C.C. No.406/SS/2014 convicting the revision applicant and the Judgment and Order dated 18th February, 2022 passed by the Sessions Court in Criminal Appeal No.732 of 2017 is quashed and set aside by allowing the parties to compound the offence in exercise of powers under Section 147 of the N.I. Act. The Applicant is acquitted of the offence under Section 138 of N.I. Act.
- iii. Criminal Revision Application No.106 of 2022 is allowed;
- iv. The Judgment and Order dated 9th January, 2018 passed by learned Metropolitan Magistrate, 7th Court, Dadar, Mumbai in C.C. No.3140/SS/2013 convicting the revision applicant and the Judgment and Order dated 18th February, 2022 passed by the Sessions Court in Criminal Appeal No.77 of 2018 is quashed and set aside by allowing the parties to compound the offence in exercise of powers under Section 147 of the N.I. Act. The Applicant is acquitted of the offence under Section 138 of N.I. Act.

- v.** Criminal Revision Application No.107 of 2022 is allowed;
- vi.** The Judgment and Order dated 9th January, 2018 passed by learned Metropolitan Magistrate, 7th Court, Dadar, Mumbai in C.C. No.4147/SS/2013 convicting the revision applicant and the Judgment and Order dated 18th February, 2022 passed by the Sessions Court in Criminal Appeal No.78 of 2018 is quashed and set aside by allowing the parties to compound the offence in exercise of powers under Section 147 of the N.I. Act. The Applicant is acquitted of the offence under Section 138 of N.I. Act.
- vii.** The complainant is permitted to withdraw the amount deposited by the revision applicant in this Court and the trial Court.
- viii.** All the Revision Applications and Interim Applications stand disposed off.

(PRAKASH D. NAIK, J.)