

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

**CR. REVISION APPLICATION NO. 337 OF 2024
WITH
CRI. INTERIM APPLICATION NO. 2489 OF 2024**

Sunil Shankarrao Shitole

...Applicant

vs.

State of Maharashtra

...Respondent

Mr. Vedchetan Patil a/w. Ms. Sunayana Kashid :-	Advocate for the Applicant.
Mr. V. S. Subramaniam :-	for the Applicant No.2
Mr. Narendra Janardan Subedhar :-	For Respondent No.2
Ms. S. E. Phad :-	APP for State.

CORAM : S. M. MODAK, J.

DATE : 2nd JULY 2024

P.C. :-

1. Heard learned Advocate for the Applicant / Convicted accused and learned Advocate for Respondent No.2 / Complainant. The conviction is by Court of Judicial Magistrate First Class, Thane dated 23rd April 2019 for the offence punishable under section 138 of the Negotiable Instruments Act, 1881 and sentence is as follows :-

- (i) Rigorous Imprisonment for four months.
- (ii) Fine of ₹6,50,000/- (Rupees Six Lakh Fifty Thousand only).
- (iii) It be paid to the Complainant.

2. This judgment is confirmed by Court of Additional Sessions Judge, Thane on 20th June 2024. The Applicant is taken into custody since then.

3. Now both the parties have entered into consent terms. It is tendered in the Court. It is taken on record and marked as 'X' for identification. It is signed by following persons:-

- (i) Respondent No.2
- (ii) learned Advocate for the Applicant and learned Advocate for the Respondent.
- (iii) The Applicant signed in the jail.

4. Terms of settlement are as follows :-

- (i) Applicant has paid ₹5,30,000/- (Rupees Five Lakh Thirty Thousand only) by way of two Demand Drafts dated 30th June 2022 to the Complainant.
- (ii) Later on ₹1,30,000/- (Rupees One Lakh Thirty Thousand only) deposited in the Court of Sessions Judge, Thane.
- (iii) As such, in addition to total amount of fine, ₹10,000/- (Rupees Ten Thousand only) is paid.
- (iv) In addition, he is ready to pay ₹3,00,000/- (Rupees Three Lakh

only) to the Complainant. He acknowledges it. Complainant consents for setting aside conviction.

5. As per *Damodar S. Prabhu v/s. Sayed Babalal H.*¹ judgment, Applicant is bound to pay certain amount with the office of Maharashtra Legal Service Authority. Hence order:

ORDER

- (i) In view of consent terms, conviction of the Applicant Sunil Shankarrao Shitole under Section 138 of the Negotiable Instruments Act, 1881 given by the Judicial Magistrate First Class, Thane and confirmed by the Additional Sessions Judge, Thane is set aside if not required in any other offence.
 - (ii) Applicant be released from jail forthwith. Bail bonds be canceled.
 - (iii) Applicant to pay 5% of ₹4,00,000/- (Rupees Four Lakh Only) i.e. amount of the cheque within four weeks with the office of Maharashtra Legal Service Authority.
 - (iv) Parties to act on authenticated copy of this order.
6. Learned Advocate for the Respondent undertakes to file Vakalatnama in the office within two weeks.
7. Accordingly Revision Application and Interim Application are disposed of.

[S. M. MODAK, J.]

1 (2010) 5 SCC 663