

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

**CRIMINAL REVISION APPLICATION NO. 398 OF 2024
ALONGWITH
INTERIM APPLICATION NO. 2994 OF 2024**

Rohita Rajendra Kolekar ...Applicant

vs.

Nitin Laxman Jadhav ...Respondent

Mr. Rakesh Bhatkar :-	Advocate for Applicant.
Mr. Mohit Dalvi :-	Advocate for Respondent No.1.
Shri. Nitin Laxman Jadhav :-	Respondent/ Original Complainant present.

CORAM : S. M. MODAK, J.

DATE : 5th AUGUST 2024

P. C. :-

1. Heard learned Advocate for Applicant / convicted Accused.
There is a conviction by Court of Judicial Magistrate First Class,
Ratnagiri for an offence punishable under Section 138 of the
Negotiable Instruments Act, 1881. The sentence is as follows :-

** Order modified as per speaking to the minutes order dated 22nd August 2024.*

Kishor

- (i) Three (3) months Simple Imprisonment; and
- (ii) ₹ 1,00,000/- (Rupees One Lakh only) compensation.

2. Her Appeal was dismissed by the Sessions Judge, Ratnagiri on **23rd July 2024***. The Applicant is taken into custody. She has paid amount of ₹1,00,000/- (Rupees One Lakh only) to Complainant. The Complainant is present in Court. His learned Advocate seeks time to file Vakalatnama. Let him file Vakalatnama within two weeks. He is consenting for setting aside conviction. Let him file affidavit. Keep the matter back.

Later on :-

3. The consent affidavit on behalf of Respondent No.1 / original Complainant is taken on record and marked as 'Annexure-X' for identification. The paragraph No.5 refers about receipt of ₹1,00,000/- (Rupees One Lakh only). In respect of observations in case of ***Damodar S. Prabhu vs. Sayed Babalal H.***¹ judgment, learned Advocate for Applicant prays for leniency because the Applicant is a lady and her husband plies auto rickshaw. It can certainly be considered. Hence order :--

1 (2010) 5 SCC 663

* Order modified as per speaking to the minutes order dated 22nd August 2024.

ORDER

- (i) The judgment of conviction and sentence for the offence punishable under Section 138 of N. I. Act imposed by Court of Judicial Magistrate First Class, Ratnagiri in Summary Criminal Case No. 625 of 2024 confirmed by Court of Sessions Judge, Ratnagiri in Criminal Appeal No. 26 of 2018 are hereby set aside.
- (ii) The Applicant to pay ₹5,000/- (Rupees Five Thousand only) to the office of Maharashtra Legal Services Authority within two weeks from today.
- (iii) The Applicant be set of free immediately if not required in any other case.
- (iv) As the two weeks time is given to pay the amount, the Superintendent, Ratnagiri Jail may release the Applicant from jail if not required in any other case.

- 4. Parties to act on authenticated copy of this order.
- 5. Revision and Interim Application is disposed of.
- 6. Keep the matter for compliance on **9th September 2024.**

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[S. M. MODAK, J.]

** Order modified as per speaking to the minutes order dated 22nd August 2024.*

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