

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

INTERIM APPLICATION NO. 1694 OF 2024

WITH

INTERIM APPLICATION NO. 1695 OF 2024

IN

CRIMINAL REVISION APPLICATION (ST) NO. 8857 OF 2024

Shivaji Baburao Patil

...Applicant

vs.

Padmashri D. Y. Patil Sahakari
Sakhar Karkhana Ltd., and Anr.

...Respondents

Ms.Kalyani Mangave i/b. Mr.S.S. Borulkar:-	Advocate for Applicant.
Mr.Ruturaj P. Pawar:-	Advocate for Respondent No.1.
Mr.Prakash D. Mithari:-	Authorised Representative of Respondent No.1.
Ms.Sangita E. Phad:-	APP for Respondent No.2-State.
Mr.Shivaji Baburao Patil:-	Applicant present in Court.

CORAM : S. M. MODAK, J.

DATE : 21st JUNE 2024

P. C. :-

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1. Heard learned Advocate for the Applicant – Accused and learned Advocate for the Complainant.

2. There is a delay of 30 days in preferring the Revision. The parties have settled the matter and entered into the consent terms. For the reasons stated in the Application, the delay is condoned.
3. The Application is disposed of accordingly.

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4. Heard both the sides.
5. The Applicant is convicted by the Court of JMFC – Kolhapur on 8th May 2015 for the offence under Section 138 of the Negotiable Instruments Act, 1881 (“NI Act”).
6. The sentence is as follows:-
 - (a) Simple imprisonment for two (2) months,
 - (b) Compensation of Rs.3,41,000/- (Rupees Three Lakh Forty One Thousand Only).
7. His Appeal was dismissed on 7th December 2023. The Applicant has in fact paid more amount to the tune of Rs.3,55,000/- (Rupees Three Lakh Fifty Five Thousand Only). Now, they have entered into the consent terms. It is taken on record. It is signed by the Applicant and the authorised signatory of Respondent No.1 and by their respective Advocates. Both the parties are present. They admit the

contents. The description of the payment is given in Para Nos.5, 6 & 7.

The Complainant is consenting for setting aside the conviction.

8. In respect of the payment as per the judgment in case of *Damodar S. Prabhu v/s. Sayed Babalal H.*¹, learned Advocate for the Applicant submitted that he is a sugarcane cutting labourer. This amount is raised even by raising loan. Learned Advocate for the Respondent admits this fact. If the money could not be paid earlier on account of having difficulties, I think, the amount of charges can be waived.

9. In view of that, following order is passed:-

ORDER

- (i) The order of conviction and sentence dated 8th May 2015 passed by the Court of JMFC – Kolhapur in Summary Criminal Case No.2437 of 2012 and confirmed by the Appellate Court in Criminal Appeal No.88 of 2015 dated 7th December 2023 are set aside.
- (ii) The Complainant is permitted to withdraw the amount of Rs.78,200/- (Rupees Seventy Eight Thousand Two Hundred Only) deposited before the Court of Additional Sessions Judge – Kolhapur. The Applicant through his Advocate is consenting.

1 (2010) 5 SCC 663

10. In view of the above, Interim Application is disposed of.
11. Revision Application stands disposed of accordingly.

[S. M. MODAK, J.]