



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL REVISION APPLICATION NO.297 OF 2022

Shri Chetan s/o Shashikant Shah

..VS..

Ramesh s/o Dhirumal Jaswani

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Ms Sejal A. Lakhani, Advocate for the applicant.

Shri J.R. Bachwani, Advocate for non-applicant.

CORAM: SANDIPKUMAR C. MORE, J.

DATE : 26/11/2024.

Heard the rival submissions.

2. During the pendency of this Criminal Revision Application, the parties have filed the Criminal Application (APPR) No.149/2024, wherein the non-applicant i.e. original complainant Ramesh Dhirumal Jaswani and the applicant/accused Chetan Shashikant Shah have sought permission to compound the offence under Section 138 of the Negotiable Instruments Act (the NI Act), before this Court.

3. The applicant/accused has preferred this Criminal Revision Application being aggrieved with the judgment and order dated 17.12.2022 in Criminal Appeal no. 31/2019 passed by the learned Additional Sessions Judge-12, Nagpur i.e. the learned Appellate Court whereby his conviction recorded by the learned Judicial Magistrate First Class, Nagpur under the judgment and order dated 07.01.2019 is upheld.

4. Now, the applicant/accused as well as non-applicant/complainant are seeking permission to

compound the aforesaid offence. They both are present before this Court and submitted that, the matter is settled between them amicably by paying the amount to the non-applicant/complainant as per their compromise. The non-applicant/complainant also acknowledged the same. However, since this is the settlement between the parties before this Court, the applicant/accused needs to pay the amount as per the guidelines issued by the Hon'ble Apex Court in the case of *Damodar S. Prabhu vs. Sayed Babalal (2010) 5 SCC 663*.

5. As per the aforesaid guidelines, the applicant/accused is required to pay 15% of the cheque amount to the Legal Services Authority. However, the learned Counsel for the applicant/accused submits, that the applicant has already suffered loss in his business and therefore, he is not able to pay the 15% of the cheque amount, which comes to Rs.1,65,000/-. It is noted to be here that, the Hon'ble Apex Court to encourage compounding offences under the NI Act, has observed that the Court giving permission to compound offence, may reduce the aforesaid amount of the costs with regard to specific facts and circumstances of a case.

6. The applicant/accused on asking, submitted that his financial condition is not so sound and he might be permitted to deposit an amount of Rs.20,000/- instead of the aforesaid amount of Rs.1,65,000/- as costs.

7. It appears that the parties have settled the matter amicably and voluntarily, and considering the statement of the applicant/accused in relation to his current financial condition that, permission to compound

the offence by depositing costs of Rs.20,000/- to the Legal Services Authority within a period of eight days from the date of this order.

8. As such, subject to condition of depositing the aforesaid costs of Rs.20,000/- to the Legal Services Authority, permission to compound the offence is granted and after deposit of the cost amount, the applicant/accused shall stand acquitted from the offence under Section 138 of the NI Act and conviction recorded by the learned Judicial Magistrate First Class, Nagpur in S.C.C. No.23792 of 2015 shall stand set aside.

9. The present Criminal Revision Application stands disposed of. In view of that, all the pending Application(s), if any, also stand disposed of.

(SANDIPKUMAR C. MORE, J.)

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