2025:BHC-AUG:30940

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

912 CRIMINAL REVISION APPLICATION NO. 149 OF 2018

VAIJNATHAPPA SARAF MARATHWADA NAGRI CO OPERATIVE BANK LTD.
HINGOLI THR RENUKADAS DATTATRAYA VAIDYA
VERSUS
MATIN S/O. ALLAUDDIN KAMLE

.....
Advocate for Applicant : Mr. Agrawal Pavankumar S.
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CORAM : Y.G. KHOBRAGADE, J.
DATE : 11.11.2025

P.C.:-

1. Heard the learned counsel Mr. Agrawal for the revision applicant at length. Though, the Respondent is served but he has chosen not to appear in the matter.

2. By the present revision under Section 397 of the Cr.P.C. the revision applicant takes exception to the judgment and order dated 11.04.2018 passed by the learned Additional Sessions Judge, Hingoli in Criminal Appeal No.29/2010, whereby the appeal of the respondent accused was allowed and the conviction of sentence was modified to fine of Rs.5,000/- and in default of payment of fine the respondent-accused has to suffer S.I. for one month. The learned Additional Sessions Judge further directed the respondent accused to pay compensation of Rupees One Lakh to the

applicant/ bank.

3. The learned counsel appearing for the revision applicant canvassed that the respondent accused has availed a loan of Rs.75,000/- in the month of April-2002 and at the earlier point of time the applicant bank had filed SCC No.754/2006 against the non-applicant accused and said complaint was amicably settled between the revision applicant and the non-applicant by filing compromise petition Exh.53 therein. As per the evidence of applicant-complainant on 01.02.2009 the non-applicant accused issued a cheque for an amount of Rs.80,000/-, however, the said cheque was dishonored on 01.02.2009. Therefore, the same was returned on 25.02.2009 on the ground of stoppage of payment by drawer accordingly mandatory notice was issued but it was not complied. Therefore, the applicant bank again filed SCC No.182/2009 and after conclusion of the trial the learned JMFC, Hingoli passed the judgment and order on 14.09.2010 and convicted the non-applicant accused for the offence punishable under Section 138 of the N.I. Act and he was sentenced to suffer S.I. for two months with compensation of Rs.80,000/-.

4. Being aggrieved by the said judgment and order the respondent-accused had filed criminal appeal no.29/2010. On 11.04.2018, the learned Appellate Court passed the impugned order holding that the accused had

obtained loan of Rs.75,000/- in the month of April-2002 and earlier a case was filed in the year 2007 for a cheque worth Rs.75,000/- but the said cheque dishonoured and SCC No.754/2006 was filed but it was compromised subsequently and an amount of Rs.75,000/- was agreed. However, again the respondent/accused had issued a cheque of Rs.75,000/- but it was not honored.

5. The learned counsel appearing for the revision applicant canvassed that though the non-applicant accused had deposited an amount of Rs.87,500/- before filing of appeal no.29/2010 against the loan of Rs.75,000/- but the learned trial Court ordered to pay Rs.80,000/- towards compensation which means total amount of compensation of Rs.1,67,500/- was outstanding. However, the learned Appellate Court wrongly held that by adding some more amount in compensation and imposing fine on the accused the appeal has been disposed of with the observation that it will settle the dispute towards full and final settlement of the loan account.

6. Needles to say that the complainant/applicant bank wanted to only challenge the observations made by the learned Additional Sessions Judge only to the extent that “it will also settle dispute as full and final settlement of account”. It does not appear that any prejudice would be caused to the present applicant/complainant because the appeal which has been filed

by the respondent/accused was allowed only by modification of sentence and awarded fine of compensation of Rupees One Lakh from Rupees Eighty Thousand which appear to be just and proper and no interference is called at the hands of this Court to disturb the findings recorded by the learned Appellate Court. The Appellant/Ori. Complainant Bank has neither challenged the order of modification of sentence nor awarding of compensation. It is trite settled principle of law that the Appellate Court is empowered to modify the sentence to compensation for the offence punishable under Section 138 of the N.I. Act. Therefore, I do not find any substance in the contention of the applicant, hence, the present revision application is dismissed.

[Y.G. KHOBRAGADE, J.]

mubashir