

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

Criminal Revision Application No.372 of 2013

Gautam N Parekh

Age 30 years,

Adult, Indian Inhabitant, residing at

A-410, Jai Sai Darshan CHS Ltd.,

Rambaug Lane, Opp. Mulji Nagar,

Borivali (W),

Mumbai 400 092

... Applicant

versus

1. Mittal Poonmchand Doshi,
Residing at B-205, Shweta Park CHS,
Daulat Nagar Road No.2, Borivali (East),
Mumbai 400 066

2. The State of Maharashtra

... Respondents

With

Interim Application No.1245 of 2025

In

Criminal Revision Application No.372 of 2013

Gautam N Parekh

Age 42 years, Occ: Service

R/o. A/410, Jai Sai Darshan,

Rambaug Lane, Near Vijay Sales,

Borivali West,

Mumbai 400 092

... Applicant

versus

1. Mittal Poonmchand Doshi,
Age: 42, Occ: Unknown
R/o. B-205, Shweta Park, CHS
Daulat Nagar, Road No.2, Borivali (E),
Mumbai 400 066.
2. The State of Maharashtra
(at the instance of the Public Prosecutor) ... Respondents

Ms Neha Vijay Rane, i/b. Mr Ravi Mungekar for the applicant
in IA/1245/2025.

Mr Adwait Tamhankar, for the applicant in REVN/372 of
2013.

Mr MG Patil, APP, for respondent No.2/ State.

Coram: R.N. Laddha, J.

Date: 28 March 2025.

P.C.:

- . Heard the learned Counsel for the parties.
2. By the present revision application, the applicant seeks to challenge the judgment and order dated 3 September 2013 passed by the learned Ad-hoc Additional Sessions Judge, Dindoshi, Mumbai, in Criminal Appeal No.49 of 2012, and the judgment and order dated 18 June 2012 passed by the learned Metropolitan Magistrate, 18th Court, Borivali, Mumbai, in Criminal Case No.801/SS/2010, whereby the applicant was

convicted under Section 138 of the Negotiable Instruments Act, 1881 (for short 'NI Act').

3. The learned Counsel for the contesting parties jointly submit that during the pendency of the present revision application, the applicant and respondent No.1 have amicably resolved their dispute and executed consent terms dated 22 March 2025. The learned Counsel for respondent No.1 submits that respondent No.1 (original complainant) has no objection to setting aside the concurrent judgment and order of conviction passed by the Courts below. The learned Counsel also submits that respondent No.1 has received the settlement amount in accordance with the consent terms. The learned APP for respondent No.2/State submits that appropriate orders may be passed.

4. The offence under Section 138 of the NI Act is limited to two parties involved in a commercial transaction. However, to ensure the credibility of transactions involving negotiable instruments, the legislature has provided for criminal prosecution for the dishonour of a cheque. It is a settled position in law that Section 138 primarily aims to ensure compensation to the complainant. The NI Act does not prohibit the parties from entering into a compromise, both during the

pendency of the complaint and even after the conviction of the accused. Since the parties have amicably settled their dispute, this Court sees no difficulty in setting aside the applicant's conviction.

5. The contesting parties are present before this Court and identified by their respective Counsel. When questioned, respondent No.1 confirmed that he has no objection to setting aside the applicant's conviction. The parties agree to abide by the terms and conditions of the consent terms dated 25 March 2025 placed on record.

6. In these circumstances, judgment and order dated 18 June 2012 passed by the learned Metropolitan Magistrate, 18th Court, Borivali, Mumbai, in Criminal Case No.801/SS/2010, convicting the applicant under section 138 of the NI Act, and the judgment and order dated 3 September 2013 passed by the learned Ad-hoc Additional Sessions Judge, Dindoshi, Mumbai, in Criminal Appeal No.49 of 2012, confirming the applicant's conviction, are set aside, and the applicant is acquitted subject to the payment of cost of Rs.35,000/- to the High Court Legal Service Authorities within two weeks from the date of uploading this order. The terms of the consent terms are accepted as an undertaking to this Court.

7. The revision application stands disposed of accordingly. As a sequel, the pending interim application also stands disposed of.

(R.N. Laddha, J.)