

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

**Criminal Revision Application No.178 of 2024
With
Interim Application No.4689 of 2024
In
Criminal Revision Application No.178 of 2024**

Hemant Chandrashekhar Kadrekar
Age:41 years, Occ: Unemployed,
R/at: B-408, 4th floor, Plot No.251-B,
Meena Tai Thakare CHS, Chhatrapati
Shivaji M Marg, Mahim (W),
Mumbai – 400 016

... Applicant

Versus

1. Late Shri Syed Anwar Rizvi
Through legal heirs,
1(a). Anju Syed Anwar Rizvi
Age:61 years,
1(b). Ruhi Sudhir Warde
Age: 37 years,
1(c). Juhi Pramod Jadhav
Age: 37 years,
All R/at: AL4/30/3,
Saraswati Apartment, Airoli,
Sector 16, Navi Mumbai 400 708
2. State of Maharashtra

... Respondents.

Mr Yogesh Dharra, i/by Vivek Yadav, for the applicant.
Ms Juhi Jadhav, for respondents No.1(a) to 1(c).
Mr Swapnil Pednekar, APP, for respondent No.2/ State.
Respondents No.1(a), 1(b), 1(c) are present in-person.

Coram: R.N. Laddha, J.
Date: 19 March 2025

P.C.:

By the present revision application, the applicant seeks to challenge the judgment and order dated 21 March 2024 passed by the learned Additional Sessions Judge, Belapur, Navi Mumbai, in Criminal Appeal No.233 of 2023, and the judgment and order dated 22 April 2022 passed by the learned Judicial Magistrate First Class, Vashi, Navi Mumbai, in Summary Criminal Case No.1498 of 2018, whereby the applicant was convicted under Section 138 of the Negotiable Instruments Act, 1881 (for short 'NI Act').

2. I have heard Mr Yogesh Dharra, the learned Counsel appearing on behalf of the applicant/ accused, Ms Juhi Jadhav, the learned Counsel appearing for respondents No.1(a) to 1(c)/ the heirs of the deceased complainant, and Mr Swapnil Pednekar, the learned Additional Public Prosecutor representing respondent No.2/ State.

3. The learned Counsel for the contesting parties jointly submit that during the pendency of the present revision

application, the applicant and the contesting respondents have amicably resolved their dispute and executed consent terms dated 18 March 2025. The learned Counsel for respondent No.1 submits that the heirs of the original complainant have no objection to setting aside the concurrent judgment and order of conviction passed by the Courts below. The learned Counsel also submits that the contesting respondents have received the settlement amount in accordance with the consent terms. The contesting parties have placed on record a copy of the consent terms.

4. The learned APP for respondent No.2 submits that appropriate orders may be passed.

5. The offence under Section 138 of the NI Act is confined to two private parties arising from a commercial transaction. However, to ensure the credibility of transactions involving negotiable instruments, the legislature has provided for criminal prosecution in cases of cheque dishonour. It is a settled position in law that the primary objective of Section 138 is compensation for the complainant. The NI Act does not prevent the parties from reaching a settlement, whether during the pendency of the complaint and even after the accused has been convicted. Since the parties have amicably resolved their dispute, this Court finds no impediment in setting aside the

applicant's conviction.

6. The contesting respondents i.e. respondents No.1(a) to 1(c) are present in-person and are identified by their Counsel. When questioned, they confirmed they have no objection to setting aside the applicant's conviction. The parties agree to abide by the terms and conditions of the consent terms and are identified by their respective counsel. The consent terms are taken on record and marked 'X' for identification.

7. In these circumstances, the judgment and order dated 22 April 2022 passed by the learned Judicial Magistrate First Class, Vashi, Navi Mumbai, in Summary Criminal Case No.1498 of 2018, convicting the applicant under section 138 of the NI Act, and the judgment and order dated 21 March 2024 passed by the learned Additional Sessions Judge, Belapur, Navi Mumbai, in Criminal Appeal No.233 of 2023, confirming the applicant's conviction, are set aside, and the applicant is acquitted subject to the condition that the applicant shall deposit the cost with the State Legal Services Authority in accordance with the judgment of the Supreme Court in the case of ***Damodar S. Prabhu Vs. Sayed Babalal H.***¹ within six weeks from today.

8. The revision application stands disposed of accordingly.

¹ (2010) 5 SCC 663.

As a sequel, the pending application also stands disposed of.

[R.N. Laddha, J.]