

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

Criminal Revision Application No.182 of 2024

Prakashchandra Tekchand Achhpal

Age: 66 years, Occ. Business,

R/at: E-75, North Bombay Society,

Juhu Tara Road, Mumbai – 400 049

Presently lodged at Jail.

... Applicant.

Versus

1. State of Maharashtra

2. Ramaswaroop Madanlal Dangra

Occ Business, residing at: 501,

Carnation Building, Saturu Garden,

Kopri Colony, Thane (East), Thane.

... Respondents.

Mr Induprakash Tripathi a/w Ms Rita Rajput i/by CK Tripathi,
for the applicant/ accused.

Mr MG Patil, APP, for respondent No.1/State.

Mr Jitendra Tiwari, for respondent No.2/ complainant.

Coram: R.N. Laddha, J.

Date: 13 February 2025.

P.C.:

By the present revision application, the applicant seeks to challenge the judgment and order dated 2 April 2024 passed by the learned Additional Sessions Judge, Thane, in Criminal Appeal No.30 of 2015, and the judgment and order dated 7 January 2015 passed by the learned Judicial Magistrate First

Class, 4th Court, Thane, in Summary Criminal Case No.2869 of 2012, whereby the applicant was convicted under Section 138 of the Negotiable Instruments Act, 1881 (for short 'NI Act').

2. I have heard Mr Induprakash Tripathi, the learned Counsel appearing on behalf of the applicant/ accused, Mr MG Patil, the learned Additional Public Prosecutor representing respondent No.1/ State, and Mr Jitendra Tiwari, the learned Counsel appearing for respondent No.2/ complainant.

3. The learned Counsel for the contesting parties jointly submit that during the pendency of the present revision application, the applicant and respondent No.2 have amicably resolved their dispute and executed consent terms dated 13 February 2025 and have placed a copy thereof on record. The learned Counsel for respondent No.2 submits that respondent No.2 has no objection to setting aside the concurrent judgment and order of conviction passed by the Courts below. He also tendered a copy of respondent No.2's consent affidavit dated 13 February 2025. Respondent No.2 is present in person and is identified by his Counsel. When questioned, he 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 and are identified by their respective counsel. The consent terms and the consent affidavit are taken on record

and marked 'X collectively' for identification.

4. The learned APP for respondent No.1 submits that appropriate orders may be passed.

5. The offence under Section 138 of the NI Act is limited to two private 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.

6. In these circumstances, the judgment and order dated 7 January 2015 passed by the learned Judicial Magistrate First Class, 4th Court, Thane, in Summary Criminal Case No.2869 of 2012, convicting the applicant under section 138 of the NI Act, and the judgment and order dated 2 April 2024 passed by the learned Additional Sessions Judge, Thane, in Criminal Appeal No.30 of 2015, confirming the applicant's conviction, are set

aside, and the applicant is acquitted subject to the payment of cost of Rs.1,00,000/- to the “ High Court Employees Medical Welfare Fund at Mumbai” within four weeks from the date of uploading this order. The terms of the consent terms are accepted as an undertaking to this Court. As agreed between the parties, the amount deposited by the applicant in the trial Court, along with any interest accrued thereon, is permitted to be released in favour of respondent No.2.

7. The revision application stands disposed of accordingly.

(R.N. Laddha, J.)