

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

Criminal Application No. 330 of 2025

1. Navneet Singh Gogia

Age 53 years.

2. Simran Kaur Gogia

Age 47 years.

Flat No.C-504/505,

Shreeji Heights, Sector 46-A,

Plot No.1, 1A, 1B, 1C,

Nerul, Navi Mumbai.

... Applicants

versus

1. The State of Maharashtra

2. Rahul B Chandak

Age 60 years, 202,

Labh Darshan,

South Pond Road,

Vile Parle (West),

Mumbai - 400 056.

... Respondents

Mr Jugal Kanani, for the applicants.

Ms Manisha R Tidke, APP, for respondent No.1/ State.

Mr Anand K Kanse, for respondent No.2.

Coram: R.N. Laddha, J.

Date: 28 April 2025

P.C.:

The applicants have approached this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking

the compounding of the offence in CC No.4081/SS/2016 before the Court of the Metropolitan Magistrate, 33rd Court, Ballard Pier, Mumbai. The substantive prayer reads as follows:

“a. this Hon’ble court be pleased to exercise its jurisdiction under section 147 of the Negotiable Instruments Act, 1881 and pass appropriate orders for compounding the offence alleged in CC No.4081/SS of 2016, decided by the Ld. Magistrate, 33rd Court, Ballard Pier, Mumbai, as having been lawfully compounded by and between the parties.”

2. I have heard Mr Jugal Kanani, the learned Counsel appearing on behalf of the applicants, Ms Manisha Tidke, the learned Additional Public Prosecutor representing respondent No.1/ State, and Mr Anand Kanse, the learned Counsel appearing for respondent No.2, and perused the records.

3. By the judgment and order dated 5 June 2018 passed by the learned Metropolitan Magistrate, 33rd Court, Ballard Pier, Mumbai, the applicants (accused Nos.2 and 3) were convicted for the offences punishable under Sections 138 read with 141 of the Negotiable Instruments Act, 1881 (‘NI Act’), in CC No.4081/SS/2016. Aggrieved thereby, the applicants preferred an appeal bearing No.382 of 2018 before the Sessions Court, Mumbai, which was dismissed on 28 February 2023. The applicants then challenged the concurrent findings of

conviction before this Court in revision application No.71 of 2023. By a common judgment and order dated 21 January 2025, this Court dismissed the revision and confirmed the applicants' conviction.

4. The learned Counsel for the contesting parties submit that after the dismissal of the revision, the applicants and respondent No.2 have amicably resolved their dispute and entered into a deed of settlement on 1 March 2025, and by this application, they seek to compound the offence. The learned Counsel for respondent No.2 submits that respondent No.2 has received the settlement amount, has no objection to compounding the offence, and setting aside the applicants' conviction. He further submits that the consent affidavit dated 16 April 2025 of respondent No.2 is placed on record. The learned APP representing respondent No.1/ State submits that the Court may pass appropriate orders.

5. Respondent No.2 is present before this Court and is identified by his Counsel. When questioned, he confirms that he has no objection to setting aside the applicants' conviction, acknowledges the receipt of the settlement amount, and reiterates the contents of his consent affidavit dated 16 April 2025.

6. 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 or even after the accused has been convicted.

7. In the case of *Kashinath Balu Gaonkar v. Sunita Krishnajirao Dessai*, 2015 SCC OnLine Bom 1490, this Court encountered a comparable scenario and, relying upon this Court's decision in *Shri Satish Vaman Madkaikar v. Shri Xavier D'Souza*, Criminal Application (Main) No.247 of 2008 dated 7 October 2008, determined that the compounding of the offence may be allowed in the interest of justice, even after the conviction and sentence have been confirmed by this Court. Since the parties have amicably resolved their dispute, this Court finds no impediment in compounding the offence and setting aside the applicants' conviction.

8. In these circumstances, the application is allowed. The contesting parties are permitted to compound the offence. The

orders of conviction and sentence passed by the Courts below are quashed and set aside on account of the offence being permitted to be compounded. The complaint filed by respondent No.2 stands dismissed. The applicants are acquitted in offences punishable under Sections 138 read with 141 of the NI Act, in CC No.4081/SS/2016, subject to condition that the applicants shall deposit the cost with the State Legal Services Authority in accordance with the judgment of the Hon'ble Supreme Court in the case of ***Damodar S. Prabhu Vs. Sayed Babalal H., (2010) 5 SCC 663***, within six weeks from the date of this Order.

9. The application stands disposed of accordingly.

(R.N. Laddha, J.)