

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

Criminal Application No. 331 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. Sushma 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.:

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.

2. The following facts give rise to the present application: Respondent No.2 filed a complaint bearing CC No.4001/SS/2016 before the learned Metropolitan Magistrate, 33rd Court, Ballard Pier, Mumbai, against the applicants (accused Nos.2 and 3) for the offences punishable under Sections 138 read with 141 of the Negotiable Instruments Act, 1881 ('NI Act'). The trial Court convicted the applicants by the judgment and order dated 5 June 2018. Dissatisfied, the applicants approached the learned Sessions Court, Mumbai, by filing an appeal bearing No.383 of 2018. The learned Sessions Court vide the judgment and order dated 28 February 2023, dismissed the applicants' plea and confirmed their conviction. Still aggrieved, the applicants invoked this Court's revisional jurisdiction in revision application No.70 of 2023, which was dismissed on 21 January 2025.

3. By this application, the applicants now seek to compound the offence. 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 of the offence alleged in CC No.4001/SS of 2016, decided by the Ld. Magistrate, 33rd Court, Ballard Pier, Mumbai, as having been lawfully compounded by and between the parties.”

4. Mr Jugal Kanani, the learned Counsel appearing for the applicants, and Mr Anand Kanse, the learned Counsel appearing on behalf of respondent No.2, jointly inform the Court that following the dismissal of the revision, the contesting parties have successfully resolved their dispute and formalised a deed of settlement on 1 March 2025 and, by this application, seek to compound the offence. The learned Counsel for respondent No.2 confirms that respondent No.2 has received the settlement amount and has no objection to compounding the offence and acquitting the applicants. He further submits that the consent affidavit dated 16 April 2025 of respondent No.2 is placed on record. Ms Manisha Tidke, 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 her Counsel. When questioned, she confirms that she has no objection to setting aside the applicants' conviction, acknowledges the receipt of the settlement amount, and reiterates the contents of her consent affidavit dated 16 April

2025.

6. The offence under Section 138 of the NI Act pertains specifically to disputes arising from a commercial transaction between two private parties. The legislature introduced criminal prosecution for cheque dishonour cases to ensure the credibility of transactions involving negotiable instruments. It is well-established that the primary objective of Section 138 is to compensate the complainant. Furthermore, the NI Act does not bar the parties from reaching a settlement, whether during the complaint's pendency or after the accused's conviction.

7. In the case of *Kashinath Balu Gaonkar v. Sunita Krishnajirao Dessai*, 2015 SCC OnLine Bom 1490, this Court encountered a equivalent circumstances and, referring to 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.4001/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 v. 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.)