

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

**CRIMINAL APPLICATION NO. 390 OF 2025**

Ashok Anand Rao

... Applicant

**Vs.**

Rupesh Madanlal Sharma & Anr.

... Respondents

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Mr. Osman Chishty i/b Mr. Jivan Hiwrale, Advocates for the Applicant.

Mr. Mayur Sonavane, APP for Respondent/State.

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**CORAM : ASHWIN D. BHOBE, J.**

**DATE : 12<sup>th</sup> DECEMBER, 2025.**

**P.C. :**

1. By the present application filed under Section 528 of BNSS (482 of Cr.P.C.), the Applicants are challenging the Order dated 21<sup>st</sup> September 2023 passed by the Metropolitan Magistrate 28<sup>th</sup> Court Esplande Mumbai in Criminal Case No. 2801289/SUM/2022, by which the learned Metropolitan Magistrate has issued process against the Applicant for the offences punishable under Section 138 of Negotiable Instrument Act.

2. Mr. Mayur Sonavane, learned APP for the Respondent / State objects to the maintainability of the present Application on the ground that the the impugned order dated 21<sup>st</sup> September 2023 is a revisable Order and the Applicant ought to avail the remedy of filing Criminal Revision Application under Section 438 of BNSS. Reliance is placed on the decision of the Hon'ble Supreme Court in the case of Adalat Prasad Vs. Rooplal Jindal and Ors.

3. In view of the objection raised by the Mr. Mayur Sonavane, learned APP, Mr. Osman learned Advocate for the Applicant on instructions from the Applicant craves leave to withdraw the present Application with liberty to file a Revision Application before the Sessions Court having jurisdiction. He submits that time period for filing of Criminal Revision Application is 90 days. He submits that the Applicant had filed the present Application under section 528 of BNSS bonafidely. He submits that the proposed Revision Application would be beyond the said period, as such he prays that the application for condonation of delay, which would be filed along with the Revision Application, be directed to be considered with a liberal approach. He submits that the Applicant shall present an Application for condonation of delay along with the Criminal Revision Application before the Sessions Court having jurisdiction within the period of one week from today. Mr. Mayur Sonavane, APP does not object to the said request made by the Applicant.

4. In view of the submissions of Mr. Osman learned Advocate for the Applicant, leave to withdraw the Criminal Application No. 390 of 2025 is granted, with liberty as prayed for. Applicant would not have benefited by delaying taking recourse to the remedies available to the Applicant against the impugned order. As such, if the Applicant files an Application for condonation of delay along with the Criminal Revision Application before the Sessions Court having jurisdiction within the period of one week from today, the cause shown by the Applicant, seeking condonation of delay be considered liberally after notice and hearing being afforded to the Original Complainant in Criminal Case No. 2801289/SUM/2022.

5. It is clarified that this Court has not opined on merits of the subject matter.

6. Criminal Application No. 390 of 2025 is disposed of as withdrawn with the liberty as above.

**(ASHWIN D. BHOBE, J.)**