

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

Criminal Revision Application (Stamp) No.2648 of 2020

With

Interim Application No.192 of 2025

With

Interim Application (Stamp) No.18 of 2021

With

Interim Application (Stamp) No.2651 of 2020

In

Criminal Revision Application (Stamp) No.2648 of 2020

Tejas Jayantilal Shah

Age: 62 years,

Having his address at:

304, 3rd Floor, Rishabh Mansion 3,

Jawahar Nagar, S V Road,

Goregaon (W),

Mumbai – 400 062

... Applicant

versus

1. Abhay Doshi

Age: 61 (approx)

Residing at: C-1303,

Tirupati Apartments,

Bhulabhai Desai Road,

Opp. Mahalaxmi Temple,

Mumbai – 400 026

... Respondent No.1

2. The State of Maharashtra

(Through Public Prosecutor)

... Respondent No.2

Mr Ashok Mishra, a/w. Ms Kinjal Mehta, i/b. M/s. Solicis Lex,

for the applicant.

Ms Ankita Bamboli, for respondent No.1.

Dr Ashwini A Takalkar, APP, for respondent No.2/ State.

Coram: R.N. Laddha, J.

Date: 16 January 2025.

P.C.:

. Heard Mr Ashok Mishra, the learned Counsel appearing on behalf of the applicant/ original accused; Ms Ankita Bamboli, the learned Counsel, for respondent No.1/original complainant; and Dr Ashwini Takalkar, the learned Additional Public Prosecutor representing respondent No.2/State.

2. This revision application is filed against the judgment and order dated 9 August 2017 passed by the learned Metropolitan Magistrate, 33rd Court, Ballard Pier, Mumbai and order dated 17 February 2020 passed by the learned Additional Sessions Judge, Mumbai, in Criminal Appeal No.586 of 2017 whereby the judgment and order dated 9 August 2017 passed by the learned Metropolitan Magistrate in C.C.No.5407/SS/2015 was upheld and the applicant/accused was convicted under Section 138 of the Negotiable Instruments Act (“the Act”). The learned Counsel for the contesting parties jointly submit that during the pendency of the present revision application, the applicant/accused and respondent No.1/ original complainant

have resolved their dispute amicably and executed consent terms dated 14 October 2024 and placed a copy thereof on record. The learned Counsel for respondent No.1 submits that respondent No.1 has no objection to set aside the concurrent judgment and order of conviction passed by both the Courts below. The applicant and respondent no.1 appeared before this Court and are identified by their respective Counsel. When questioned, respondent No.1 confirmed that he has no objection to setting aside the conviction of the applicant.

3. The learned APP for respondent No.2/State submits that the appropriate orders may be passed.

4. The offence under Section 138 of the Negotiable Instruments Act is limited to two private parties involved in a commercial transaction. However, the intent of a legislature in providing a criminal prosecution for dishonouring a cheque is to ensure the credibility of transaction involving negotiable instruments. It is settled position in law that Section 138 of the N.I. Act primarily aims to compensate the complainant. The N.I. Act also allows private parties to enter 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 conviction of the applicant.

5. In these circumstances, the judgment and order dated 9 August 2017 passed by the learned Metropolitan Magistrate, 33rd Court, Ballard Pier, Mumbai and order dated 17 February 2020 passed by the learned Additional Sessions Judge, Mumbai, in Criminal Appeal No.586 of 2017, whereby the judgment and order dated 9 August 2017 passed by the learned Metropolitan Magistrate in C.C. No.5407/SS/2015 confirmed the conviction of the applicant, are set aside and the applicant/accused is acquitted, subject to payment of costs of 15% of the cheque amount to the High Court Legal Service Authority, Mumbai, by the applicant/accused within a period of four weeks from the date of uploading of this order. The present criminal revision application stands disposed of in the aforesaid terms. As a sequel, the pending applications also stand disposed of.

(R.N. Laddha, J.)