

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

Criminal Revision Application No. 235 of 2017

(Not on board. Taken on board)

Sapana Pankaj Chaturvedi

Aged about 48 years, Business

by Profession, Office at 15/104,

Gulmohar, Mhada, Oshiwara,

Andheri (West), Mumbai - 400 053.

... Applicant

versus

1. Santosh Mehta

An adult, Indian Inhabitant,

Aged about 60 years, Proprietor

of M/s. Fusion, B-9, Oberoi Blocks,

Bhardawadi, Andheri (West),

Mumbai - 400 058.

2. The State of Maharashtra

... Respondents

with

Interim Application No. 415 of 2025

in

Criminal Application No. 247 of 2017

in

Criminal Revision Application No. 235 of 2017

Sapana Pankaj Chaturvedi

Aged about 55 years, Occ. Business,

Office at 15/104, Gulmohar,

Mhada, Oshiwara, Andheri (West),

Mumbai - 400 053.

... Applicant

versus

1. Santosh Mehta

Aged about 82 years, Proprietor
of M/s. Fusion, B-9, Oberoi Blocks,
Bhardawadi, Andheri (West),
Mumbai - 400 058.

2. The State of Maharashtra

... Respondents

with

Interim Application No. 2903 of 2024

(Not on board. Taken on board)

in

Criminal Application No. 247 of 2017

in

Criminal Revision Application No. 235 of 2017

Sapana Pankaj Chaturvedi

Adult, Indian Inhabitant,
Aged about 55 years, Occ. Business,
Office at 15/104, Gulmohar,
Mhada, Oshiwara, Andheri (West),
Mumbai - 400 053.

... Applicant

versus

1. Santosh Mehta

Aged about 60 years, Proprietor
of M/s. Fusion, B-9, Oberoi Blocks,
Bhardawadi, Andheri (West),
Mumbai - 400 058.

2. The State of Maharashtra

... Respondents

with
Criminal Application No. 247 of 2017
(Not on board. Taken on board)

in
Criminal Revision Application No. 235 of 2017

Sapana Pankaj Chaturvedi

Aged about 48 years, Business by

Profession, Office at 15/104,

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versus

1. Santosh Mehta

An Adult, Indian Inhabitant,

Aged about 60 years, Proprietor

of M/s. Fusion, B-9, Oberoi Blocks,

Bhardawadi, Andheri (West),

Mumbai - 400 058.

2. The State of Maharashtra

... Respondents

Mr Sadanand Shetty a/w Ms Sharanya Sankaranarayanan i/b
Gaurav Deshmukh, for the applicant.

Mr Krushang Kedia, for respondent No.1.

Ms Sangita E Phad, APP, for respondent No.2 / State.

Coram: R.N. Laddha, J.

Date: 28 January 2025

P.C.:

. Heard Mr Sadanand Shetty, the learned Counsel

appearing on behalf of the applicant / original accused; Mr Krushang Kedia, the learned Counsel for respondent No.1 and Ms Sangita Phad, the learned Additional Public Prosecutor representing respondent No.2/State.

2. This revision application is filed against the judgment and order dated 19 March 2012 passed by the learned Metropolitan Magistrate, 44th Court, Andheri, Mumbai and order dated 20 February 2017 passed by the learned Additional Sessions Judge, Mumbai, in Criminal Appeal No.901 of 2015 whereby the judgment and order dated 19 March 2012 passed by the learned Metropolitan Magistrate in C.C.No.2958/SS/2010 was upheld and the applicant/accused was convicted under Section 138 of the Negotiable Instruments Act, 1881 (“the Act”).

3. 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 affidavit of respondent No.1 dated 25 July 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.

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

5. The offence under Section 138 of the Negotiable Instruments Act, 1881 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.

6. In these circumstances, the judgment and order dated 19 March 2012 passed by the learned Metropolitan Magistrate,

44th Court, Andheri, Mumbai and order dated 20 February 2017 passed by the learned Additional Sessions Judge, Mumbai, in Criminal Appeal No.901 of 2017, whereby the judgment and order dated 19 March 2012 passed by the learned Metropolitan Magistrate in C.C. No.2958/SS/2010 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.)