

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

Revision Application (St) No.2705 of 2025

With

Interim Application No.552 of 2025

In

Revision Application (St) No.2705 of 2025

Laxman Shivaji Mandake

Age: 39 yrs, Occ : Labour,

R/o Shirasgaon

Tal-Kadegaon, Dist.Sangli.

... Applicant

Versus

1. The State of Maharashtra

(copy to be served on Public

Prosecutor, High Court of

Judicature, Bombay, at Bombay)

2. Manoj Anil Mane

Age: 39 yrs, Occ: Labour

R/o Kachare Galli, Islampur

Tal-Walva, Dist. Sangli

... Respondents

Mr Sachin Thorat, along with Mr Pranav Borgave i/by
Dhananjay Bhosle, for the applicant.

Mr MG Patil, APP, for respondent No.1/ State.

Mr Nikhil Pawar, for respondent No.2.

Coram: R.N. Laddha, J.

Date: 23 April 2025

P.C. :

By the present revision application, the applicant seeks to challenge the judgment and order dated 10 June 2024 passed by the learned Additional Sessions Judge, Islampur, Sangli, in Criminal Appeal No.15 of 2018, and the judgment and order dated 10 December 2014 passed by the learned Judicial Magistrate First Class, Islampur, in Summary Criminal Case No.379 of 2012, whereby the applicant was convicted under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'NI Act').

2. I have heard Mr Sachin Thorat, the learned Counsel appearing on behalf of the applicant/ accused, Mr MG Patil, the learned Additional Public Prosecutor representing respondent No.1/ State, and Mr Nikhil Pawar, the learned Counsel appearing for respondent No.2/ complainant.

3. The learned Counsel for the contesting parties jointly submit that during the pendency of the present revision application, the applicant and respondent No.2 have amicably resolved their dispute. The learned Counsel for respondent No.2 submits that respondent No.2 consents to setting aside

the concurrent judgment and order of conviction passed by the Courts below and places on record his consent affidavit dated 23 April 2025. He also submits that respondent No.2 has received the settlement amount.

4. The learned APP for respondent No.1 submits that appropriate orders may be passed.

5. 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 and even after the accused has been convicted. Since the parties have amicably resolved their dispute, this Court finds no impediment in setting aside the applicant's conviction.

6. 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 applicant's conviction,

acknowledges the receipt of the settlement amount, and reiterates the contents of his consent affidavit dated 23 April 2025. The consent affidavit of respondent No.1 dated 23 April 2025 is taken on record and marked 'X' for identification.

7. In these circumstances, the judgment and order dated 10 December 2014 passed by the learned Judicial Magistrate First Class, Islampur, in Summary Criminal Case No.379 of 2012, convicting the applicant under section 138 of the NI Act, and the judgment and order dated 10 June 2024 passed by the learned Additional Sessions Judge, Islampur, Sangli, in Criminal Appeal No.15 of 2018, confirming the applicant's conviction, are set aside, and the applicant is acquitted subject to the condition that the applicant shall deposit the cost with the State Legal Services Authority in accordance with the judgment of the Supreme Court in the case of *Damodar S. Prabhu Vs. Sayed Babalal H.*¹ within six weeks from today.

8. The revision application stands disposed of accordingly. As a sequel, the pending application also stands disposed of.

(R. N. Laddha, J.)

1. (2010) 5 SCC 663