CHITRA SANJAY SONAWANE
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Criminal Revision Application No.222 of 2025
With
Interim Application No.1946 of 2025
In
Criminal Revision Application No.222 of 2025

Namdev Ramu Shende
Age: 44 years, Occu: Agriculturist
R/At: Vetalnagar, Honewadi,
Tal. Ajara, Dist: Kolhapur … Applicant

versus

1. Yashwant Rajaram Desai
   Age: 54 years, Occu. Business
   R/at Post: Wani Galli, Ajara,
   Tal. Ajara, Dist: Kolhapur

2. The State of Maharashtra
   (Formal Party) … Respondents

Mr Paras D Yadav, i/b. Mr Vinayak Tejam, for the applicant.
Mr Kalpesh Patil, for respondent No.1.
Respondent No.1 present in person.
Mr MG Patil, APP, for respondent No.2/ State.

Coram: R.N. Laddha, J.
Date: 17 July 2025.

P.C.:

By the present revision application, the applicant seeks to challenge the judgment and order dated 28 April 2025 passed by the learned Additional Sessions Judge, Gadhinglaj, Kolhapur, in Criminal Appeal No.39 of 2024, and the judgment and order dated 3 October 2024 passed by the learned Metropolitan Magistrate First Class, Ajara, Kolhapur, in Summary Criminal Case No.41 of 2018, whereby the applicant was convicted under Section 138 of the Negotiable Instruments Act, 1881 (for short 'NI Act').

2. Heard Mr Paras Yadav, the learned Counsel appearing on behalf of the applicant/ accused, Mr Kalpesh Patil, the learned Counsel appearing on behalf of respondent No.1/ complainant, and Mr MG Patil, the learned Additional Public Prosecutor representing respondent No.2/ State.

3. The learned Counsel for the contesting parties jointly submit that during the pendency of the present revision application, the applicant and respondent No.1 have amicably resolved their dispute. The learned Counsel for respondent No.1 submits that respondent No.1 has no objection to setting aside the concurrent judgment and order of conviction passed by the Courts below. The learned Counsel also submits that

respondent No. 1 has received the settlement amount as agreed upon by the parties. The learned Additional Public Prosecutor representing respondent No.2 submits that appropriate orders may be passed.

4. 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.

5. The contesting parties are present before this Court and identified by their respective Counsel. When questioned, respondent No.1 confirms that he has no objection to setting aside the applicant's conviction and reiterates the contents of his consent affidavit dated 17 July 2025, which is taken on record and marked 'X' for identification.

6. Since the parties have amicably settled their dispute, this Court sees no difficulty in setting aside the applicant's conviction. As a result, the judgment and order dated 3

October 2024 passed by the learned Metropolitan Magistrate First Class, Ajara, Kolhapur, in Summary Criminal Case No.41 of 2018, convicting the applicant under section 138 of the NI Act, and the judgment and order dated 28 April 2025 passed by the learned Additional Sessions Judge, Gadhinglaj, Kolhapur, in Criminal Appeal No.39 of 2024, 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 Hon'ble Supreme Court in the case of ***Damodar S. Prabhu Vs. Sayed Babalal H., (2010) 5 SCC 663,*** within six weeks from today.

7. The revision application stands disposed of accordingly. As a sequel, the interim application also stands disposed of.

(R.N. Laddha, J.)