



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO. 902 OF 2025

Nitesh @ Nitin Ramchandra Dhakate

Vs.

Sumit Santosh Kapoor

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. Amit D. Bhate, Advocate for petitioner.

Mr. A.M. Tirukh, Advocate for respondent.

CORAM : M.M. NERLIKAR, J.

DATE : 19.11.2025

Heard.

2. By the present petition under Articles 226 and 227 of the Constitution of India read with Section 482 of the Code of Criminal Procedure the petitioner has prayed to exercise extra ordinary powers vested in the High Court. The following prayer (i) is made :

“(i) By a suitable writ, order or direction, the order of conviction of petitioner dated 16.01.2023 passed by the learned District Consumer Disputes Redressal Commission Bhandara in EA No.19/30 (Sumit Kapoor Vs. Nitesh Dhakate) (Annexure – C) may kindly be quashed and set aside”

3. It appears that the learned District Consumer Disputes Redressal Commission, Bhandara vide its order dated 24.05.2019 directed the petitioner to complete the construction of Flat No.402, sale-deed be executed to that effect and possession be given within six months or to return Rs.4,50,000/- taken for the flat along with 18% interest from the date of payment of the amount.

4. As the aforesaid order was not complied Darkhast bearing No.EA/19/30 was filed under Section 27 of the Consumer Protection Act which was allowed thereby convicting the petitioner for non-compliance of the said order by awarding simple imprisonment of three years and also Rs.10,000/- fine was imposed. The aforesaid order was challenged before the State Commission by the petitioner however, the appeal filed by the petitioner was dismissed in default.

5. The learned counsel appearing for the petitioner submits that now the matter has been settled between the parties and the entire amount along with interest has been paid by the petitioner. Accordingly, the notices were issued by this Court and it was made returnable on 04.12.2025. However, in the afternoon session, the matter was mentioned for taking the matter on board showing urgency as the petitioner is contesting the election. Therefore, the learned counsel for petitioner has

requested that as the matter is settled, the order of conviction be set aside. Considering the pressing urgency, I deemed it appropriate to take the matter at 4:30 p.m.

6. The learned counsel for respondent appeared and filed the Vakalatnama along with reply-affidavit on behalf of the respondent wherein the respondent in para 3 and 4 has stated as under :

“3. All disputes with respect to Consumer Case No.18/58 and its judgment dated 24.05.2019 now stand settled and I have agreed to withdraw all grievances against the petitioner therein.

4. That in view of the full compliance of the judgment by the petitioner, I do not wish to prosecute the petitioner in the present proceeding and hence hereby give my consent to quashing of the order of conviction dated 16.01.2023 passed by the learned District Consumer Forum Bhandra in Execution Application No.19/30. I have also filed Pursis about the compliance by petitioner dated 06.08.2024 before the learned District Consumer Disputes Redressal Commission Bhandara which is annexed to the petitioner as Annexure – E. Hence, the petition may kindly be allowed in the interest of justice, hence, this reply.”

7. The respondent is also present in the Court. He was identified by his Advocate Mr. A.M. Tirukh. I have also interacted with the respondent, he categorically submitted that he has no objection if the order dated

16.01.2023 passed by the learned District Consumer Disputes Redressal Commission, Bhandara wherein the petitioner was convicted was set aside. He further admits that the entire amount was paid along with interest.

8. Considering the present facts and circumstance of the case, I am inclined to exercise the extraordinary powers vested in me in the interest of justice. The petition is allowed in terms of prayer clause (i) which reads as under :

“(i) By a suitable writ, order or direction, the order of conviction of petitioner dated 16.01.2023 passed by the learned District Consumer Disputes Redressal Commission Bhandara in EA No.19/30 (Sumit Kapoor Vs. Nitesh Dhakate) (Annexure – C) may kindly be quashed and set aside”

9. It is made clear that the same is subject to costs of Rs.50,000/- out of which Rs.25,000/- to be paid to High Court Bar Association Library, Nagpur and Rs.25,000/- to be paid to Vidarbha Lady Lawyers Association, Nagpur, today itself.

10. The petition is allowed in above terms.

(M.M. Nerlikar, J.)