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IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL REVISION APPLICATION NO.75 OF 2026

SHRADDHA KESHAV BHADE ... Applicant

V/s.

DIAGO MARCUS FERNANDES & Anr. …Respondents

Mr Jatin Ramaiya, Advocate through VC with Ms Komal Naik, Advocate for the Applicant.

CORAM:- AMIT S. JAMSANDEKAR, J.
DATED :- 29th October, 2026

P.C.

1. The present Criminal Revision Application is directed against the Judgment and Order dated 07.01.2025 in Criminal Appeal No. 248/2023, whereby the Learned Additional Sessions Judge, Panaji, sitting at Ponda, upheld the Judgment and Order dated 01.09.2019 passed by the Learned Judicial Magistrate First Class at Ponda in Criminal Case No. 590/OA/NIA/2016/C. The Learned Judicial Magistrate First Class at Ponda("JMFC") found the Applicant guilty of an offence under Section 138 of the Negotiable Instruments Act, 1881, and directed the Applicant to undergo imprisonment for

a period of 12 months and to pay a fine of Rs. 5,00,000/- (Rupees Five Lakhs Only), and in default of payment of compensation, to undergo a further four months of simple imprisonment. The Applicant impugns the concurrent findings of the Learned Judicial Magistrate First Class at Ponda, Goa, and the Learned Additional Sessions Judge at Panaji, sitting at Ponda. Both Courts have found the Applicant guilty of an offence under Section 138 of the Negotiable Instruments Act, 1881.

2. Vide Order dated 28.11.2025, this Court issued notice to the Respondents. Respondent No. 1 has been served at least twice; despite this, Respondent No. 1 has chosen to abstain from appearing in the present proceedings. Therefore, with the assistance of Adv. Ramaiya, I have gone through the records of the present proceedings.

3. Adv. Jatin Ramaiya submitted that the findings of the lower courts are perverse, suffer from material misappreciation of evidence, or otherwise result in a miscarriage of justice. Mr. Ramaiya took me through the evidence and pointed out that

the material on record ought to have been examined in its entirety, including the terms of the Deed of Sale dated 04.02.2015, the covenants recorded therein, and the circumstances in which the cheque was issued, and that on this ground alone the impugned judgment and order require interference. It is specifically contended that the Deed of Sale dated 04.02.2015 records that the entire monies due to the Respondent for the purchase of the premises by the Applicant have been paid and received. Therefore, according to Mr. Ramaiya, the presumption under Section 139 of the Negotiable Instruments Act was rebutted by the Applicant. It is his contention that the Trial Court and the Sessions Court failed to consider this material aspect of the matter.

4. Mr. Ramaiya further pointed out that the Respondent had already filed a Suit before the Court of the Civil Judge, Senior Division, at Ponda, bearing Regular Civil Suit No. 67/2016/A, wherein the Learned Civil Court decreed the suit in favour of the Respondent and directed the Applicant to pay an amount of Rs. 15,00,000/- (Rupees Fifteen Lakhs Only), which

includes the liability constituting the subject cheque. It was urged that the Judgment and Decree dated 30.11.2017 passed in Regular Civil Suit No. 67/2016/A was brought in execution before the Learned Civil Court, and that vide Order dated 06.03.2021 in Execution No. 1/2018/A, the Learned Civil Court recorded that the Judgment and Decree dated 30.11.2017 stands satisfied.

5. Finally, Mr. Ramaiya submitted that the impugned judgments deserve reconsideration in light of the material circumstances and the specific defences raised by the Applicant. Therefore, according to him, the lower courts ought to have examined whether there was in fact a legally enforceable debt as on the date of presentation of the cheque, in order to satisfy the ingredients of Section 138 of the Negotiable Instruments Act.

6. With the assistance of Adv. Ramaiya, appearing for the Applicant, I have gone through the application and the material placed on record by the Applicant. It appears from the record that the Learned Additional Sessions Court and the Learned JMFC at Ponda have both concurrently held the

Applicant liable for conviction after examining the material defences and the case set up by the defence. Even the impact of the Deed of Sale dated 04.02.2015 and the attending circumstances in which the subject cheque was issued by the Applicant were considered by the Learned Courts. Both the Learned Trial Court and the Learned Additional Sessions Court, in their respective detailed judgments, have considered all aspects of the matter and duly considered the defences.

7. Mr. Ramaiya fairly submits that the filing of the Civil Suit, the passing of the Decree and even the satisfaction of the Decree were placed before both the Learned Trial Court and the Learned Sessions Court. Therefore, there appears to be no perversity or patent illegality in the impugned order. It is otherwise settled law that where the accused has paid the entire cheque amount, the punishment for such an offence should be in the nature of a flea bite.

8. However, considering that the Applicant was arrested pursuant to the impugned judgment and has already suffered a major portion of her substantive sentence, and that the

Respondent has been successful in executing the civil decree against the Applicant for an amount of Rs. 15,00,000/- along with interest at 12% p.a. from 20.05.2015 till 06.03.2021, I find this to be a fit case for reducing the sentence to the period already suffered by the Applicant and for quashing the remaining sentence and the requirement of any further payment of compensation.

9. In view of the above, the following Order is passed:

a. The present Revision is partly allowed. The Judgment and Order passed by the Learned JMFC, Ponda in Criminal Case No.590/OA/NIA/2016/C dated 01.09.2019, to the extent it directs the Applicant to undergo imprisonment for a period of one year, to pay a fine of Rs. 5,00,000/- (Rupees Five Lakhs Only), and, in default, to undergo a further sentence of four months, and the judgment and order passed by the Learned Additional Sessions Judge, Panaji, Sitting at Ponda in Criminal Appeal No. 248/2023 dated 7.1.2025 are quashed and set aside. The Applicant's

sentence is reduced to the substantive sentence already suffered, and the part directing the Applicant to pay a fine of Rs.5,00,000/- (Rupees Five Lakhs Only) is specifically set aside.

b. Criminal Revision Application stands disposed of accordingly. Pending Applications, if any, stand disposed of.

10. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[AMIT S. JAMSANDEKAR,J.]

Signed by: VINITA VIKAS NAIK
Designation: Private Secretary
Date: 29/10/2026 14:30:53