IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.119 OF 2003

Kirit Ratilal Shah … Petitioner
Vs.
Mohan Hirchand Shah & Anr. … Respondents

Mr. Sumedh S. Modak, appointed advocate for the Petitioner.
Mr. Prathamesh Naik h/f Kocharekar for Respondent No.1.
Ms. Rutuja Ambekar, APP for Respondent No.2-State.

CORAM : N.R. BORKAR, J.
DATE : 18TH AUGUST 2026

P.C. :

MUGDHA MANOJ PARANJAPE
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Date: 2026.08.28 14:36:45 +0530

1. This Criminal Revision Application takes exception to the judgment and order dated 04th March 2003 passed by the Additional Sessions Judge, Raigad-Alibag in Criminal Appeal No.29 of 2002.

2. Respondent No.1 herein had filed the complaint case against the Petitioner for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881.

3. The trial court by the judgment and order dated 19th June 2002 convicted the present Petitioner for the said offence and sentenced him to suffer rigorous imprisonment for one year and to pay fine of Rs.1,00,000/-.

4. By the impugned judgment and order, the Learned Additional Sessions Judge has dismissed the Appeal filed by the present Petitioner against the judgment and order of the trial court.

5. I have heard Learned Counsel for the Petitioner and Learned Counsel for Respondent No.1.

6. Learned Counsel for the Petitioner has drawn my attention to the judgment and order of the trial court. It is submitted that a specific submission was made before the trial court by the advocate for Respondent No.1 that the present Petitioner may not be sentenced to imprisonment. It is submitted that on the very same ground the prayer was made before the appellate court to show leniency, however, the appellate court without recording any reasons rejected the said prayer.

7. I have perused the impugned judgment and order passed by the trial court and the appellate court. It appears that specific submission was made before the appellate court to show leniency in view of the certain submissions made on behalf of Respondent No.1-original complainant before the trial court and based on certain peculiar facts and circumstances of the case. However, the appellate court has mechanically rejected the said prayer. The complaint is of the year 1997 and therefore, I am not inclined to remand the matter back to the appellate court.

8. Considering the overall facts and circumstances, the following order is passed :-

ORDER

i. The Criminal Revision Application is partly allowed.

ii. The conviction of the Petitioner for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 is maintained. However, the sentence of imprisonment imposed by the trial court is set aside and the sentence of fine is maintained.

9. The Criminal Revision Application is disposed of in the aforesaid terms.

(N.R. BORKAR, J.)