

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL REVISION APPLICATION NO. 102 of 2019****With****CRIMINAL MISC.APPLICATION (REGULAR BAIL) NO. 1 of 2019****In R/CRIMINAL REVISION APPLICATION NO. 102 of 2019****SHIVSHAKTI TRADERS PROPRIETOR ARVINDAGAR SUKHAGAR
MEGHNATHI****Versus****SAILESH HARJIVANBHAI BATHIYA****Appearance:****ADITI P CHADHA(9338) for the Applicant(s) No. 1****MS ZEAL H SHAH(9811) for the Applicant(s) No. 1****MR PREMAL S RACHH(3297) for the Respondent(s) No. 1****MS CHETNA SHAH, APP for the Respondent(s) No. 2****CORAM: HONOURABLE MR.JUSTICE S.H.VORA****Date : 28/02/2019****ORAL ORDER****Order in Criminal Revision Application**

1. Notice for final disposal. Learned advocate Mr. Premal Rachh waives service of notice on behalf of respondent No.1 and learned APP Ms. Chetna Shah waives service of notice on behalf of respondent no.2– State.
2. Deed of Settlement between the complainant-respondent no.1 – Sailesh Harjivanbhai Bathiya and the applicant is taken on record.
3. At the time of hearing, both the complainant and applicant – accused are present along with their respective advocates

and state on oath that the parties to the proceeding filed under section 138 of the Negotiable Instrument Act is settled and now the complainant has no objection if the judgment and order of conviction and sentence imposed upon the applicant – accused is set aside in the interest of justice.

4. After verifying the statement made at bar and averments made in the affidavit on behalf of both the parties to the litigation, it appears that settlement arrived at between the parties is accepted as genuine and judgment and order of conviction and sentence dated 29.01.2018 passed by the learned 2nd Additional Chief Judicial Magistrate at Jamnagar in Criminal Case No.3403 of 2014 and confirmed by order dated 18.09.2018 passed by the learned Additional Sessions Judge, Jamnagar in Criminal Appeal No.24 of 2018 are hereby quashed and set aside, as this Court intends to secure ends of justice as provided under section 482 of the Criminal Procedure Code.
5. In view of above, the applicant – Proprietor of Shivshakti Traders - Mr. Arvindagar Sukhagar Meghnathi, now is not under obligation to serve the sentence and the applicant shall be treated as acquitted on account of compounding offence with the complainant.
6. In light of decision rendered by the Hon'ble Apex Court in the case of **Damodar S. Prabhu v/s. Sayed Babalal H. reported in AIR 2010 SC 1907**, the applicant is required to pay 15% of the cheque amount by way of cost with the High Court Legal Services Committee in accordance with

guidelines laid down in the said decision. In para 17 of the said decision, the Hon'ble Apex Court has also observed that the Court can reduce the cost with regard to the specific facts and circumstances of the case. In the instant case, the applicant's financial condition is poor and as stated at bar, he could manage funds from friends and relatives and further, the applicant has suffered three days sentence and therefore, to meet the ends of justice, the applicant is directed to deposit sum of Rs.20,000/- with High Court Legal Services Committee.

7. Accordingly, present Criminal Revision Application is allowed subject to payment of sum of Rs.20,000/- by the applicant with High Court Legal Services Committee within four weeks from today. Direct service is permitted.
8. The Registry of High Court and also the Appellate Court is directed to return the amount paid by the applicant by way of account payee cheque on proper verification.

Order in Criminal Misc. Application

In view of disposal of main matter being Criminal Revision Application No.102 of 2019, present application would not survive and stands disposed of accordingly.

(S.H.VORA, J)

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