

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/CRIMINAL REVISION APPLICATION NO. 158 of 2023
With
CRIMINAL MISC. APPLICATION (FOR CONDONATION OF
DELAY) NO. 1 of 2023
In R/CRIMINAL REVISION APPLICATION NO. 158 of 2023**

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MANSUKHBHAI SAVSHIBHAI SANKALIYA

Versus
STATE OF GUJARAT

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Appearance:

MR RATHIN P RAVAL(5013) for the Applicant(s) No. 1
for the Respondent(s) No. 2
PUBLIC PROSECUTOR for the Respondent(s) No. 1
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CORAM:**HONOURABLE MS. JUSTICE GITA GOPI**

Date : 28/02/2023

ORAL ORDER

1. Learned advocate Ms. Esha S. Bhavsar has instructions to appear on behalf of the respondent No. 2 – original complaint. She shall file her appearance during the course of the day.

Order in Criminal Misc. Application (For Condonation of Delay) No. 1 of 2023:

1. Heard, learned advocate Mr. Rathin Raval for the applicant and learned advocate Ms. Bhavsar for the respondent No. 2.

2. Delay of 248 days, caused in preferring main criminal revision application, is condoned.

Order in Criminal Revision Application No. 158 of 2023:

1. **Rule.** Learned advocate for the respective respondents waive service. With the consent of the learned advocates for the parties, as the revisionist is in jail, the matter is taken up for final hearing today.

2. Challenge in this revision is to the judgment and order of conviction and sentence dated 12.03.2019 passed by learned 4th Additional Senior Civil Judge and Additional Chief Judicial Magistrate, Rajkot in Criminal Case No. 4998 of 2017, which is reaffirmed by an order dated 07.12.2021 passed by learned 11th Additional Session Judge, Rajkot in Criminal Appeal No. 76 of 2019. By the aforesaid order of the trial Court, the revisionist is sentenced to one year simple imprisonment (SI) and also ordered to pay compensation of Rs.6 lakh to the original complainant failing which, to undergo further SI for eight months.

3. Original complainant - Rudrapratapsinh Varjangbhai Boricha is present in the Court and identified by learned advocate

Ms. Bhavsar.

4. At the outset, learned advocate Mr. Rathin Raval for the revisionist stated at bar that the matter is amicably settled between the parties. In support of such a submission, an affidavit, duly affirmed by complainant - Rudrapratapsinh Varjangbhai Boricha is produced, which is directed to be taken on record.

4.1 The original complainant confirms the averments made in the affidavit saying that the matter has been settled and that, he has received the entire cheque amount in cash. It is further submitted that the settlement has been arrived at due to intervention of the elders of the community and further states that since long, the accused is in jail.

4.2 Section 147 of the Negotiable Instruments Act, 1881 (NI Act) is an enabling provision which provides for compounding of offence. The said section was inserted by way of amendment to the special law and the same having overriding effect over Section (a) of Section 320 of the Criminal Procedure Code, 1973.

5. Thus, in view of the object of the Act and in consonance of

the provisions of Section 147 of the NI Act, the matter is considered as compounded. Thus, the impugned orders, referred to herein above, are hereby quashed and set aside. The revisionist is reported to be in jail. He is ordered to be released forthwith, if not required in any other case. Rule is made absolute accordingly.

[Gita Gopi, J.]

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