



2025 INSC 633

REPORTABLE
IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). **OF 2025**
(Arising out of SLP (Crl.) No (s). 4728 of 2023)

RAJENDRA ANANT VARIK**APPELLANT(S)**

VERSUS

GOVIND B. PRABHUGAONKAR**RESPONDENT(S)**

JUDGMENT

Mehta, J.

1. Heard.

2. Leave granted.

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NEETU KHADURIA
Date: 2024.05.06
17:33:39 IST
Reason:

3. The accused-appellant has approached this Court, through this appeal by special leave, assailing the judgment dated 7th January, 2023, passed by the High Court of Judicature at Bombay at Goa¹ in Criminal Appeal No. 53 of 2017 whereby the High Court quashed and set aside the judgment dated 6th February 2017, passed by the First Appellate Court being the Court of Sessions Judge, South Goa at Margao² in Criminal Case No. 29/NI/2014. The First Appellate Court had allowed the Criminal Appeal No. 72 of 2016 filed by the accused-appellant against the conviction order dated 5th August, 2016 passed by the learned Judicial Magistrate First Class, Canacona³, and acquitted him while setting aside

¹ Hereinafter, being referred to as the 'High Court'.

² Hereinafter, being referred to as the 'First Appellate Court'.

³ ³ Hereinafter, being referred to as the 'trial Court.'

his conviction for the offence punishable under Section 138 of the Negotiable Instruments Act, 1882⁴ as recorded by the trial Court.

4. While reversing the acquittal of the accused-appellant, the High Court restored the judgment dated 5th August, 2016, passed by the trial Court in Criminal Case No. 29/NI/2014, convicting the accused-appellant for the offence punishable under Section 138 of the NI Act and directing that he shall pay compensation to the tune of Rs. 2,00,000/- to the complainant-respondent under Section 357 of Code of Criminal Procedure, 1973⁵ towards the cheque amount and further compensation to the tune of Rs. 30,000/- in the form of cost and, in default, shall undergo sentence of simple imprisonment

⁴ Hereinafter, being referred to as 'NI Act'.

⁵ Hereinafter, being referred to as 'CrPC'.

for a period of three months. In addition, the accused-appellant was directed to undergo sentence till the rising of the Court.

5. The First Appellate Court had allowed the appeal, preferred by the accused-appellant, holding that the complainant-respondent was indulging in money lending activities, without acquiring a license and was thereby acting in breach of the provisions of the Goa Money-Lenders Act, 2001⁶ and hence, he was precluded from prosecuting the accused-appellant under NI Act.

6. No one has put in appearance on behalf of the respondent-complainant despite service of notice.

7. Learned counsel appearing for the accused-appellant, urged that the accused-appellant had

⁶ Hereinafter, being referred to as the 'Goa Act'.

returned the entire amount of loan taken from the complainant-respondent between January 2012 to July 2013. He further submitted that since the accused-appellant has returned the amount of the cheque to the complainant-respondent with interest payable thereupon, he is entitled to be acquitted by compounding the offence.

8. Upon having considered the entirety of the facts and circumstances as emerging from the record, we find that the High Court, while reversing the acquittal of the accused-appellant, as recorded by the First Appellate Court, did not advert to the important issue regarding applicability of the Goa Act which provided a valid defense available to the accused-appellant. Thus, apparently, the judgment rendered by the High Court does not stand to scrutiny.

9. Furthermore, it is an admitted position that the cheque amount to the tune of Rs. 2,00,000/- and the compensation amount to the tune of Rs. 30,000/-, as imposed by the trial Court, has already been paid by the accused-appellant.

10. In view of the facts noted above and considering the aspect that the accused-appellant has already paid the cheque amount and the fine of Rs. 30,000/- imposed by the trial Court, we hereby, exercise our powers under Article 142 of the Constitution of India, to compound the offence and acquit the accused-appellant of the accusation under Section 138 of the NI Act subject to the condition that the entire amount of Rs.2,30,000/- deposited by the accused-appellant shall be paid to the complainant-respondent, if the same has not been paid till date.

11. Consequently, the present appeal is allowed in these terms.

12. Pending application(s), if any, shall stand disposed of.

.....J.
(VIKRAM NATH)

.....J.
(SANDEEP MEHTA)

NEW DELHI;
MAY 06, 2025.