

CNR No. GASG010012342022

**ORDER below Exhibit 12**

(Delivered on this 7th day of the month of September of the year 2023)

This Order shall dispose off an application for compounding of the case filed by the appellant at exhibit 12 on the ground that appellant paid the entire amount of compensation to the respondent.

2. In the present case the trial court had convicted the appellant and sentenced till rising of the court and to pay compensation of Rs.2,60,000/- to the complainant for the offence punishable under Section 138 of Negotiable Instrument Act and in default to undergo simple imprisonment for six months which judgment and order was challenged before this Court in appeal and the

appellant has paid the entire amount as ordered by the trial court to the respondent during pendency of this appeal.

3. As per citation of *Damodar Prabhu V/s Sayeed Babulal, 2010 (5) SCC 663*, wherein it addresses the question of reluctance of offenders to compound cases at earlier stages of the case prosecution, leading to huge pendency of cheque dishonour cases and hence Apex Court had issued certain guidelines proposing levy of a graded scale of fine to encourage compounding at earlier stages of the case. And in the decision guidelines are given and one of the guideline is that if the application for compounding is made before Sessions Court or High Court in Appeal or Revision such compounding may be allowed on the condition that accused pays 15% of cheque amount by way of costs.

4. The appellant in the present case went ahead with the matter when the matter was pending before the

trial Court and did not try to compound the matter and upon conviction by the trial Court during the pendency of this appeal has made the entire payment of compensation amount as ordered by the trial court in this Criminal Appeal.

5. Considering the aforesaid decision of Damodar Prabhu (supra) and the compounding application filed by the appellant stating that he has made the payment of the entire compensation amount and which application is not objected by advocate for the respondent and states that a lenient view be taken in the matter. Hence compounding application is allowed on the condition that the appellant shall deposit 10% of the amount of compensation which is Rs.26,000/- as costs, which is ordered to be paid which shall be deposited before the District Legal Services Authority, Margao within a period of 30 days from the passing of the Order and report compliance to this Court.

6. Hence for the reasons stated herein above, I pass the following:

ORDER

The application for compounding filed by the appellant at Exhibit 12 is allowed accordingly on condition.

Margao

Dated: 07/09/2023

(Kshama M. Joshi)
Additional Sessions Judge,
South Goa, Margao.

Cg/-