

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.5012 OF 2014

Bombay Mercantile Co-op. Bank Ltd., Mumbai		Petitioner
V/s.		
East West Travel & Trade Links Ltd. & Ors.		Respondents

Mr. Prakash Mahadik for the Petitioner.

Ms. Saswati Deb for Respondent Nos.1 to 7.

Mr. D.R. More, A.P.P., for Respondent No.8/State.

CORAM : M.L. TAHALIYANI, J.

DATE : 24TH DECEMBER, 2014.

P.C. :

1. Heard Mr. Mahadik, the learned Advocate for the Petitioner, Ms. Deb, the learned Advocate for Respondent Nos.1 to 7 and Mr. More, the learned A.P.P. for Respondent No.8/State.

2. Respondent Nos.1 to 7 are the accused in a Criminal Complaint filed by the Petitioner-Bombay Mercantile Co-operative Bank Ltd. for the offence punishable under Section 138 of the Negotiable Instruments Act. The offence appears to have been compounded and consent terms have been filed in the trial Court. It is submitted by the learned counsel for the parties that the Respondent Nos.1 to 7 are supposed to make payment of last installment in the month of March,

2015. It is submitted that it will be just and proper if the complaint is kept pending so that the Respondent Nos.1 to 7 comply with the consent terms and they put an end to the matter after payment of last installment. This prayer is not considered by the learned Magistrate. In my view, the order passed by the learned Magistrate is arbitrary and needs to be set aside.

3. The order passed by the learned Magistrate on 29th September, 2014 directing the hearing on merits is set aside. The learned Magistrate is directed to adjourn the case to 6th April, 2015. The learned Magistrate is at liberty to take further decision in the matter in accordance with the situation prevailing then.

4. The Writ Petition, accordingly, stands disposed of.

JUDGE