

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL REVISION APPLICATION NO. 285 OF 2014

Lahanu S/o Kishanrao Vaditke

Age : Major, Occ. Agril.,

R/o : Kadit Khurd, Tq. :

Shrirampur, Dist. : Ahmednagar.

..... **APPLICANT/**

[ORIGINAL ACCUSED]

V E R S U S

1. M/s Jain Tyres

Through its Proprietor

Nandlal Mahakchand Kunkulol,

Age : 34 Yrs., Occ. : Business,

R/o : Rampur, Tq. Rahuri,

Dist. Ahmednagar.

..... **RESPONDENT/**

[ORIGINAL COMPLAINANT]

2. The State of Maharashtra

..... **RESPONDENT**

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Mr. Vikramsinh P. Patil, Advocate for the Applicant.

Mr. N.D.Sonawane, Advocate for R-1.

Mr. V.H.Dighe, A.P.P. for R – 2 State.

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CORAM : V.M.DESHPANDE, J.

DATE OF JUDGMENT : 23rd JANUARY, 2015

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ORAL JUDGMENT :

1. Rule. Rule is made returnable forthwith. By the consent of the learned counsel for the Applicant, the learned counsel for respondent No. 1 and the learned A.P.P. for respondent No. 2 – State, the present Criminal Revision Application is taken up for final hearing.

2. The present Criminal Revision Application is directed against the Judgment and the Order dated 19/08/2006 passed by the learned Judicial Magistrate First Class, Rahata in S.T.C. No. 5318/2005, by which the learned Magistrate was pleased to convict the present applicant for the offence punishable u/s 138 of the Negotiable Instruments Act, 1881. The Appeal was filed by the present applicant questioning the correctness of the Judgment and the Order dated 19/08/2006. The Criminal Appeal No. 17/2006 is dismissed by the learned Additional Sessions Judge, Kopergaon, District Ahmednagar on 29/11/2014. Being aggrieved by the said Judgment and order, the applicant has filed the present Revision Application.

3. Heard Mr. Vikramsinh P. Patil, the learned counsel for the applicant, Mr. N.D.Sonawane, the learned counsel for respondent No. 1 and Mr. V.H.Dighe, the learned A.P.P. for respondent No. 2 - State.

4. This Court has already released the present applicant on bail. Today Mr. N.D. Sonawane, the learned counsel is appearing on behalf of the respondent No. 1/original complainant. He has filed affidavit of Mr. Nandlal Manakchand Kunkulol. It is pointed out that the parties have already settled their dispute and the respondent No. 1/original complainant has already received the entire amount. Further, statement is made at bar on behalf of the respondent No. 1/original complainant that he is not interested in sending the present applicant in jail.

5. The offence u/s 138 of the Negotiable Instruments Act is compoundable offence. The respondent No. 1/original complainant has received entire amount and there are no dues against the present applicant. The affidavit of respondent No. 1 clearly shows that he does not wish to

take any action against the present applicant. Thus, he want to compound the present offence. The affidavit filed on behalf of the respondent No. 1/original complainant is taken on record and marked ' X ' for identification.

6. In view of the affidavit and in view of the statement made by the respondent No. 1/original complainant, the Judgment and order of conviction dated 19/08/2006 and the Judgment and order dated 29/11/2014 are hereby quashed and set aside. The present applicant is acquitted for the offence punishable u/s 138 of the the Negotiable Instruments Act in view of the compromise between the parties.

7. In that view of the matter, the present Criminal Revision Application is allowed. Rule is made absolute.

[V.M.DESHPANDE, J.]

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