

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 1766 OF 2014
WITH
CRIMINAL WRIT PETITION NO. 1768 OF 2014

M/s. 3I Infotech Ltd. & Ors.

.. Petitioners

v/s.

The State of Maharashtra & Anr.

..Respondents

Mr. S.V.Marwadi i/b. Manilal Kher Ambalal & Co. for the Petitioner.
Mr.Yashpal Thakur i/b. PKA Associates, for the Respondent.
APP for the State.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : OCTOBER 12, 2015.**

P.C.

1. By this petition, the petitioner is challenging the order dated 20.11.2013 whereby the learned Magistrate dismissed the application filed by the accused under Section 258 of Cr.P.C. The said order was challenged before the Sessions Court, and the Sessions Judge has dismissed the revision vide order dated 25.3.2014. Aggrieved by the said orders the petitioner has filed the present writ petitions.

2. Shri Marwadi, learned Counsel for the petitioner submits that the parties had entered into an agreement wherein they had agreed to file consent terms before the concerned Court. He submitted that the respondent company has already received the money and hence they cannot be allowed to proceed further under Section 138 of the Negotiable Instruments Act.

3. Learned Counsel for the respondent submitted that the evidence of the complainant has already commenced and the examination-in-chief of the complainant is already recorded and the cross is yet to be commenced.

4. The complaint prima facie discloses the essential ingredients of Section 138 of the Negotiable Instruments Act. Considering that the matter is pending for evidence, the grounds raised for dismissal cannot be considered in this petition under Article 226 of the Constitution of India, and the same can be considered by the trial court. Hence, without going into the merits of the matter, the petition is dismissed. All rights and contentions of the parties are

kept open.

5. Considering that the complainant is a bank and that the matter was stayed, since June 2014, the learned Magistrate, is directed to hear and dispose of the complaint within a period of one year.

(ANUJA PRABHUDESSAI, J.)