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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 748 OF 2014**

M/s. Novelty Power & Infratech Ltd. and Ors. ... Applicants

Versus

M/s. Asarco Steel Pvt. Ltd. and anr. ... Respondents

**WITH
CRIMINAL APPLICATION NO. 749 OF 2014**

M/s. Novelty Power & Infratech Ltd. and Ors. ... Applicants

Versus

M/s. Anmol Steel Processors Pvt. Ltd. and anr. ... Respondents

Mr. Rajiv Hingu i/by Lalji H. Hingu for the applicants.

Mr. Kezer Abbas Kharawala for respondent no. 1.

Mr. D.R. More, A.P.P. for State.

**CORAM : M.L. TAHALIYANI, J.
DATED : MARCH 17, 2015**

P.C.

Heard learned counsel for the applicants and learned counsel for respondent no. 1.

2. At the outset, it may be mentioned herein that the learned counsel for respondent no. 1 submits that he will not press his complaint before the

trial court as against Applicant no. 5. Necessary steps be taken by both the parties before the trial court to drop the name of Applicant no. 5.

3. As far as Applicant nos. 1 to 4 are concerned, it is submitted that the process for the offence punishable under section 138 of the Negotiable Instruments Act could not have been issued against them as the account on which the cheque was drawn was attached by the Sales Tax Department.

4. I have gone through the impugned order passed by the learned revisional court. The revisional court has rightly stated that it has not come on record as to what extent the account was attached by the Sales Tax Department. This obviously is the dispute which pertains to the fact and can be resolved before the trial court. Secondly, the offence punishable under section 138 of the Negotiable Instruments Act is not complied immediately after the dishonour of cheque. It is complied when the amount is not paid despite service of notice and expiry of statutory period. The amount was not paid by the applicant within the statutory limit. As such the issue involved in the present applications will have to be resolved before the trial court and not before this court under section 482 of the Code of Criminal Procedure 1973. Both the applications deserve to be dismissed and the same are accordingly dismissed. Ad interim orders, if any, stand vacated.

(JUDGE)