

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

CRIMINAL APPLICATION NO. 1268 OF 2011

Sky Industries Ltd.

.. Applicant

v/s.

Mr.Paras Udani, prop. of
M/s. Adielle Inc. & Anr.

..Respondents

Mr. Amreen Mansuri i/b. Ajay law Associates for the Applicant.
Mr. Ganesh Gole for the Respondent No.1
Mr.J.H.Ramugade, APP for the State.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : SEPTEMBER 15, 2015.**

P.C.

1. The applicant herein was the complainant in C.C.No.1391/SS/2007 filed before the Special Metropolitan Magistrate, Esplanade, Mumbai, under Section 138 of the Negotiable Instruments Act. By judgment dated 21.4.2008 the learned Special Metropolitan Magistrate held the respondent no.1-accused guilty of offence under Section 138 of the Negotiable Instruments Act and sentenced him to undergo simple imprisonment till rising of the court and to pay compensation of Rs.60,000/- in default to undergo simple

imprisonment for two months. Appeal being Criminal Appeal No.294 of 2008 filed against the said judgment came to be allowed by the Sessions Court, Gr. Mumbai by judgment dated 3.3.2011 and consequently the conviction and sentence was set aside and the respondent no.1 accused was acquitted of the offence. Aggrieved by the said order, the applicant herein has filed the application for leave to appeal, which was granted by order dated 1.9.2015 and the appeal was admitted. During the pendency of the appeal, the applicant and the respondent no.1 have arrived at settlement and have filed consent terms which are as under:

The complainant-appellant hereby agrees to accept a sum of Rs.50000/- (Rupees Fifty Thousand Only) in full and final settlement of all the remaining claims against the accused/respondent no.1 hereto as against two dishonoured cheques bearing No.818827 dated 13.6.2006 for Rs.72,650/- and cheque bearing no.818828 dated 13.6.2006 for Rs. 3250/- both aggregating to Rs.75,900/- (Rupees Seventyfive Thousand Nine Hundred Only)

2) The accused hereby confirms having deposited the

amount of Rs.50,000/- in this Hon'ble court vide deposit Demand Draft No.020565 dated 16.4.2015 and the accused/respondent no.1 has no objection for withdrawing the said amount with all accrued interest thereon till date of withdrawal of the said amount from this Hon'ble Court in full satisfaction of all the claims of the appellant against the accused.

3) In view of the above, both the parties hereby apply for compromise/compounding of offence/matter subject to such terms and conditions as this Hon'ble court may deem fit and proper and both parties hereby agree to abide by the same.”

2. The consent terms are signed by the applicant as well as respondent no.1 and their respective counsel. The applicant as well as the respondent no.1 are present before the court alongwith their respective counsel and have confirmed having read the said terms and have stated that the terms are agreeable to them. The terms are therefore taken on record and marked “X” for identification.

3. In the light of the said consent terms leave is granted to the applicant and the respondent no.1 to compound the offence

punishable under Section 138 of N.I.Act. Consequently, the judgment dated 21.4.2008 in C.C.No.1391/SS/2007 is hereby quashed and set aside and the order of the Appellate Court stands confirmed. Bail bonds of the accused stand discharged.

4. At this stage, learned Counsel for the respondent no.1 filed an application on behalf of the respondent for reducing the cost payable to the Legal Service Authority in terms of the decision of the Apex Court in case of Damodar S. Prabhu vs. Sayed Babulal H, 2010 AIR (SC) 1907. In view of the ground set out in the application, lenient view is taken and the respondent no.1 accused is directed to pay compensation of Rs.3000/- to the Maharashtra State Legal Services Authority within two weeks.

(ANUJA PRABHUDESSAI, J.)

CERTIFICATE

Certified to be true and correct as per the original signed judgment/order.