

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

**CRIMINAL APPLICATION NO. 327 OF 2014
IN
CRI. REVISION APPLICATION NO. 351 OF 2014
WITH
CRI. REVISION APPLICATION NO. 351 OF 2014**

Mr. Ramesh Kasturchand Dhakad ... Applicant.
(Org.Accused)
V/s.

M/s. Kalpataru Aluminium Pvt. Ltd., & Anr. ... Respondents.

Ms. K. R. Shah i/by P.D. Jain & Co. for the Applicant.
Ms. V.S.Mhaispurkar, APP for the State.

**CORAM : M.L.TAHALIYANI, J.
DATE : 13 JANUARY, 2015**

P.C. :

1 Criminal Application No. 327 of 2014 is filed by the applicant for compounding of the offence permissible under section 138 of the Negotiable Instruments Act, 1881 (for short, hereinafter referred as the said 'Act'). The applicant (original accused) has been convicted by the trial Magistrate for the offence punishable under section 138 of the said Act and has been sentenced to suffer simple imprisonment for three months and to pay compensation of Rs. 3,00,000/- to respondent No.1 -M/s. Kalpataru Aluminium Pvt. Ltd. (original complainant). The appeal filed by the applicant has been

dismissed by the Sessions Court. Therefore, the present revision application no. 351 of 2014 has been filed by the applicant.

2 The applicant has also filed bail application alongwith the revision application. The bail application is registered as criminal bail application no. 297 of 2014. The applicant has also filed criminal application no. 298 of 2014 for suspension of substantive sentence.

3 The present criminal application no. 327 of 2014 for compounding of the offence has been signed by the applicant and respondent no.1. It is submitted by the learned counsel Ms. K.R.Shah appearing for the applicant that the dispute has been amicably resolved outside the court and that the applicant had paid Rs.5,50,000/- to respondent no.1. The applicant had deposited Rs. 60,000/- in the trial court, pursuant to the order passed by the appellate court and had also paid Rs. 4,90,000/- to respondent no.1. As such total amount of Rs. 5,50,000/- has been paid. The cheque amount was Rs.2,75,000/-. As such the respondent no. 1 (original complainant) is satisfied with the amount of Rs. 5,50,000/- against the cheque amount of Rs. 2,75,000/-.

4 As stated above, the Respondent No.1 had received Rs.4,90,000/- from the Applicant on 4th November,

2014. The receipt at page 23 of application no. 327 of 2014, acknowledging the said amount of Rs. 4,90,000/- by respondent no.1 shall be marked as 'A' for the purpose of identification.

5 The applicant is present before the court. Respondent No.1 and his Advocate are absent. In view of the application jointly signed by the applicant and respondent no.1 and their respective lawyers, I am of the view that the application can be decided today itself since the dispute has been resolved amicably outside the court. Since the applicant has paid about double the amount of cheque to respondent no. 1, it will be just and proper to allow the applicant and the respondent no.1 to compound the offence.

6 Hence, I pass the following order :

- i. Criminal application no.327 of 2014 is allowed.
- ii. The offence punishable under section 138 of the Negotiable Instruments Act stands compounded.
- iii. The applicant is acquitted of the offence punishable under section 138 of the said Act.
- iv. His bail bonds, if any, stands cancelled.

iv. An amount of Rs. 60,000/- deposited by the applicant in the court of Additional Chief Metropolitan Magistrate, 14th Court, Girgaon, Mumbai shall be paid to Respondent No.1.

v. The criminal application no. 327 of 2014 alongwith the criminal revision application no.351 of 2014 are disposed of in the above terms.

(JUDGE)

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