

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

WRIT PETITION NO.402 OF 2016

Vidyasagar Kallappa Khavate Petitioner

Vs.

Sanjay Ramchandra Latthe & Anr. Respondents

Mr. Kuldeep Nikam, Advocate for the Petitioner.

Respondent no.1 present in person.

Ms. S.V. Gajare, A.P.P. for the State.

Coram : Smt. R.P. SondurBaldota, J.

Date : 4th February, 2016

P.C.

1 This petition filed under Section 482 of the Code of Criminal Procedure seeks quashing and setting aside of (i) Summary Criminal Case No.207 of 2008 filed before the Judicial Magistrate, First Class, Kavathemahankal for the offences punishable under Section 138 of Negotiable Instruments Act, ii) the judgment and order dtd. 20th December, 2011 of conviction of the petitioner and iii) the order dtd. 13th December, 2011 passed by the Sessions Court, Sangli rejecting the application for condonation of delay in filing the appeal. Respondent no.1- the

original complainant is present in the court and tenders his affidavit dtd. 4th February, 2016. The affidavit has been duly affirmed. The same is taken on file.

2 Mr. Nikam, the learned advocate for the petitioner states that the dispute between the parties has been settled and the delay in preferring the appeal before the Sessions Court was solely on account of the negotiations for settlement. The affidavit filed by respondent no.1 confirms the fact of the settlement. The respondent states that he has received the amount of Rs.27,000/- in full and final settlement of the amount of the cheque in question. In the circumstances, the petition is allowed. The order of conviction of the petitioner is set aside and he is acquitted of the offences punishable under Section 138 Negotiable Instruments Act.

3 In view of acquittal of the petitioner, the order dtd. 9th July, 2013 of issuance of arrest warrant against the petitioner does not survive.

(Smt. R.P. SondurBaldota, J.)