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

**CRIMINAL WRIT PETITION NO.2158 OF 2016**

Bhuvnesh D. Sampat and Ors. ...Petitioners  
Versus  
Thane Janata Sahakari Bank Limited and Anr. ...Respondents

Mr.Pratap Sampat a/w Mr.Jabbar Shaikh i/b Mr.Vilas Jadhav, for the  
Petitioner Nos.1 and 3.

Mr.Hiral B. Sampat, Petitioner No.2 present in person.

Mr.B.V.Samant, for the Respondent No.1.

Ms.Pallavi Dabholkar, A.P.P for the Respondent-State

***CORAM : REVATI MOHITE DERE, J.***  
***DATE : 24<sup>th</sup> OCTOBER, 2016***

**P.C. :**

1. Heard learned counsel for the parties.
2. By this petition, the petitioners have impugned the order dated 16<sup>th</sup> October, 2008, passed by the learned Judicial Magistrate First Class, Vashi at C.B.D, Belapur, in Case No.3002 of 1998, issuing process as against the petitioners.

3. Learned Counsel for the petitioners seeks quashing on two grounds, (i) that there is no privity of any contract between the parties and (ii) that there are no sufficient averment, as required under Sections 138 r/w 141 of Negotiable Instruments Act.

4. Learned Counsel for the respondent no.1 opposes the petition. He submits that this Court vide order dated 8<sup>th</sup> February, 2016 was pleased to remit back the matter to the trial Court with a direction to proceed further with the trial, in accordance with law. The learned Magistrate was also directed to proceed with the trial as expeditiously as possible and an endeavour was to be made to complete the trial, within a period of four months from the date of receipt of the order. He submitted that plea has been recorded in the said case and that one witness has already been examined and cross-examined and that the second witness is in the witness box facing cross-examination.

5. Perused the papers. It appears that respondent no.1 had filed an appeal in this Court, being Criminal Appeal No.187 of 2015, impugning the petitioners acquittal under Section 138 of the Negotiable Instruments Act.

The petitioners were acquitted from the said case, essentially on the ground that respondent no.1 – complainant had not proceeded further in the matter after plea was recorded. The acquittal was not on merits. Hence, this Court was pleased to allow the said appeal and the impugned order of acquittal was set aside and the matter was remitted back to the trial Court with a direction to the trial Court to complete the trial as expeditiously as possible and preferably within four months from the date of receipt of the order. Considering the fact, that plea is recorded and that one witness has already been examined and cross-examined and the second witness is in the witness box facing cross-examination, it is not necessary to go into the merits of the said case as contended by the learned counsel for the petitioners.

6. The petition is accordingly dismissed and disposed of as such. The trial Court to proceed with the case on its own merits, uninfluenced by the observations made in this order.

**REVATI MOHITE DERE, J.**