

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL WRIT PETITION NO. 2169 OF 2016

Poulose Babubhai @ Poulose Smuthan Nadar

.....Petitioner

V/s.

M/s Doshi Metal Industries and another

....Respondents

Mr. Ajay Talreja Advocate for Petitioner.

Respondent no. 1 present in person

Mrs. A. A. Mane APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : JULY 26, 2016.

PC :

- 1) Heard the learned counsel for the Petitioner.
- 2) Rule. Rule made returnable forthwith with the consent of the parties.
- 3) The Petitioner and Respondent no. 1 are present before the Court. It is submitted that the parties to the present petition have amicably settled their disputes. That the Petitioner has deposited an amount of Rs. 60,000/- (Rs. Sixty Thousand) before 14th Metropolitan Magistrate Court at Girgaum, Mumbai.
- 4) The Petitioner herein stands convicted for offence punishable under

ism

section 138 of the Negotiable Instruments Act in Criminal Case No. 17/SS/2009 by 14th Metropolitan Magistrate at Girgaum, vide Judgment and Order dated 14/07/2011. Being aggrieved by the said Judgment and Order, the Petitioner herein had filed Criminal Revision Application No. 1130 of 2015 before the Sessions Court at Mumbai. The said Revision Application is dismissed by Judgment and Order 30/01/2016. Hence, this petition.

5) The Petitioner had surrendered before the Metropolitan Magistrate and was enlarged on bail by an order dated 28/06/2016. The Petitioner herein has filed an affidavit that he has no objection if the complainant withdraws the whole of the amount of Rs. 60,000/- (Rs. Sixty Thousand) paid in the Court of 14th Metropolitan Magistrate at Girgaum, Mumbai. Similarly, the complainant i.e. Respondent no. 1 has also filed an affidavit to the effect that the dispute is amicably settled between the parties. He has given his no objection in the eventuality that this writ petition is allowed.

6) It is a private dispute between both the parties and the fact that they have arrived at an amicable settlement, the petition deserves to be allowed in the interest of justice. The affidavit of the complainant is taken on record and marked as article 'X' for the purpose of identification. Similarly the affidavit

filed by the Petitioner before 14th Metropolitan Magistrate Court at Girgaum, Mumbai is also taken on record as article 'X-1' for the purpose of identification.

7) In view of the above circumstances, the Judgment of conviction and sentence imposed by 14th Metropolitan Magistrate at Girgaum, vide Judgment and Order dated 14/07/2011 in Criminal Case No. 17/SS/2009, confirmed by Sessions Court at Mumbai in Criminal Revision Application No. 1130 of 2015 is hereby quashed and set aside. Petitioner is acquitted of the charge under Section 138 of the Negotiable Instruments Act. Complainant/Respondent is permitted to withdraw the amount of Rs. 60,000/- (Rs. Sixty Thousand) deposited before 14th Metropolitan Magistrate at Girgaum, Mumbai.

8) Writ petition is allowed and disposed of accordingly.

9) Rule is made absolute in the above terms.

(SMT. SADHANA S. JADHAV, J.)