

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
APPELLATE SIDE, BENCH AT AURANGABAD

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| Office Notes, Office<br>Memoranda of Coram,<br>appearances, Court's<br>orders or directions<br>and Registrar's orders |  | Court's or Judge's orders |
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**CRIMINAL APPLICATION NO.2233/2017**  
**IN**  
**CRIMINAL REVISION APPLICATION NO.3/2016**

AGRAWAL TRADERS, SANJAY NANDLAL  
AGRAWAL AND ANR.

VERSUS

HONESTY TRADING COMPANY AND ANR.

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Advocate for Applicants : Smt. Seema T. Pawar h/f Mr.  
Talhar Ajay G.

APP for Respondent No.2/State: Mr.A.D. Nande.

Advocate for Respondent No.1 : Mr.M.V. Navandar.

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**CORAM : V.L. ACHLIYA, J.**

**Dated: MAY 03, 2017**

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The learned Counsel for the applicants submits that though this Court vide order dated 23.3.2017 restored the revision petition subject to deposit of Rs.58,000/- on or before 31.3.2017 and further to deposit Rs.50,000/- within one week thereafter, the applicant has directly paid Rs.70,000/- to complainant and entered into settlement to compound the offence.

2. The complainant present before the

Court admits that the amount of Rs.70,000/- is received by him.

3. The applicants – original accused and respondent No.1 present along with their respective advocates submit that they have settled the matter and urged to grant leave to compound the offence and dispose of the revision application in terms of compromise.

4. Complainant and accused present before the Court are identified by their respective advocates. They submit that they have settled the matter and as against the dishonour of cheque of Rs.58,820/-, the accused has paid Rs.70,000/- to complainant as full and final settlement of claim on account of cheque dishonoured. The complainant present before the Court states that he has settled the matter with the accused and in terms of settlement, he has already received Rs.70,000/-. He further submits that the offence be compounded and accused be acquitted.

5. The applicant No.2 was tried for committing offence under Section 138 of the Negotiable Instruments Act with

allegation that the cheque of Rs.58,820/- issued by him of his proprietary concern i.e. accused No.1 to the complainant was dishonoured. In spite of issuance of notice, accused failed to comply with the notice and thereby committed offence. On conclusion of trial, learned J.M.F.C. (6<sup>th</sup> Court), Jalgaon was pleased to convict the applicant No.2 under Section 138 of the said Act and sentence to undergo S.I. for two months and payment of compensation of Rs.58,820/- and failure to pay compensation, undergo further S.I. for one month. Being aggrieved by the judgment and order dated 30.10.2009 passed by the J.M.F.C. (6<sup>th</sup> Court), Jalgaon in SCC 3980 of 2003, the applicants - appellants preferred criminal appeal before the Sessions Court, Jalgaon vide Criminal Appeal No.123 of 2009. By judgment and order dated 22<sup>nd</sup> December, 2015, the appeal was dismissed and the judgment and order passed by the trial Court came to be confirmed. Being aggrieved, applicants have preferred this revision petition.

6. Having regard to the overall facts of the case, nature of evidence and the settlement arrived in between the parties, I am of the view that though the

applicants have approached at a belated stage to compound the offence, leave to compound offence deserves to be granted by invoking powers under Section 320(6) of Cr.P.C. Offence under Section 138 of the Negotiable Instruments Act is compoundable. Compounding of offence will put an end to the dispute between the complainant and accused. I am, therefore, inclined to grant leave to compound the offence and further to dispose of the revision petition in terms of compromise.

7. Hence, the following order:

**: ORDER :**

i) Revision petition is restored to its original number;

ii) The applicants – accused and respondents are permitted to compound offence under Section 138 of the Negotiable Instruments Act;

iii) Pursuant to compounding of offence, the judgment and order dated 30.10.2009 passed by the J.M.F.C. (6<sup>th</sup> Court), Jalgaon in SCC 3980 of 2003 and confirmed by appellate Court in Criminal Appeal No.123 of 2009 vide

judgment and order dated 22<sup>nd</sup> December, 2015 is set aside. The accused stands acquitted of the offence punishable under Section 138 of the Negotiable Instruments Act.

iv) Revision petition disposed of in above terms.

**(V.L. ACHLIYA,J)**