

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

WRIT PETITION NO. 721 OF 2016

Kiran Maruti Padtare

..Petitioner

v/s.

Govind Sahakari Pathpedi Maryadit
& Anr.

..Respondents

Mr. Satish Kumbhar for the Petitioner.
Mr. Dilip Zere for the Respondent No.1.
Mr.H.J.Dedia, App for the Respondent-State.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : OCTOBER 03, 2017.**

P.C.

1. The petitioner herein has challenged the Order dated 22nd January, 2016 whereby the learned Sessions Judge, Gr. Mumbai, has dismissed Criminal Appeal No. 799 of 2014 and thereby upheld the conviction and sentence imposed by judgment dated 11th August, 2014 for offence under Section 138 of the Negotiable Instruments Act.

2. During pendency of this petition, the parties have arrived at amicable settlement. They have placed on record Consent terms which read thus:

“..3. Now the parties have agreed as under:

- a) Both the parties will withdraw the allegations and counter allegations against each other.
- b) The Petitioner has deposited entire amount as per the order of Appellate Court as well as this Hon'ble Court.
- c) The particulars of the said cash deposited is as under:

Sr.	Particulars	Amount
1	Cash deposited in the trial Court	1,35,000/-
2	Cash deposited in the trial Court	2,15,000/-
3	Cash deposited in the trial Court	1,00,000/-
	Total	4,50,000/-

- d) That the petitioner and respondents are agreed to amicably settle the case and both the parties are agreed that the Respondent No.1 will withdraw the amount of Rs.4,50,000/- deposited by the petitioner.

4. Accordingly, both the parties agree that the Consent Terms shall be tendered in the above referred petition. Both the parties herein agree that they will not make any further litigation against each other.

5. The Hon'ble Court may be pleased to quash and set aside the judgment and order dated 22.01.2016 by the Ld. Sessions Court at Gr. Mumbai in Criminal Appeal No.799 of 2014, as well as judgment and order dated 11/08/2014 passed by the Ld. Metropolitan Magistrate, 33rd Court, Ballard Pier at Mumbai in case No.85/SS/2013.

6. This Honourable Court may be pleased to acquit the Accused for the offence punishable under Section 138 of Negotiable Instruments Act, 1881 and sentenced to suffer simple imprisonment for one month and to pay the compensation of Rs.4,50,000/- to the respondent within one month from the date of order, in default, to suffer further imprisonment for fifteen days be quash and set aside.”
3. The Consent terms are signed by the appellant as well as the respondent and their respective counsels. The appellant and the respondent are present before the Court and confirm having settled the dispute amicably as per the consent terms tendered in the Court.
4. In the light of above, the Consent terms are taken on record and marked “X” for identification. The statements made in the Consent terms are accepted.
5. Since the parties have amicably settled the dispute, leave is granted to compound the offence under Section 138 of the Negotiable Instruments Act as per the aforesaid terms. Consequently, the conviction and sentence imposed against the petitioner vide judgment dated 11th August, 2014 in CC. 85/SS/2013

and which was subsequently confirmed by the Appellate Court vide judgment dated 22nd January, 2016 is hereby quashed and set aside.

6. Consequently, the petitioner stands acquitted of the offence under Section 138 of the Negotiable Instruments Act.

7. The petitioner is directed to pay to the Legal Service Authority costs to the extent of 15% of the cheque amount within one week.

8. Stand over to one week for compliance of the order.

(ANUJA PRABHUDESSAI, J.)