

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.216 OF 2016

JAI JYOTAWALI STEEL PVT. LTD. & ORS.)...APPLICANTS

V/s.

**A. NAVINCHANDRA INFRAREALTY LTD.)
AND ANR.)...RESPONDENTS**

Mr.Bhavesh Thakur i/b. Mr.Omprakash Dubey, Advocate for the Applicant.

Mr.S.P.Pandey, Advocate for the Respondent No.1.

Mr.P.H.Gaikwad-Patil, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 18th JANUARY 2017.

P.C. :

1 This is a revision application by the original accused challenging the judgment and order passed by the learned Additional Sessions Judge, City Civil and Sessions Court, Greater Bombay, Mumbai, on 9th March 2016 rejecting their Criminal Appeal bearing no.973 of 2014. By that appeal, revisional applicants / original accused had challenged the judgment and

order dated 19th September 2014 passed by the learned Metropolitan Magistrate, 50th Court, Vikhroli, Mumbai, convicting them of the offence punishable under Section 138 of the Negotiable Instruments Act. The learned trial court upon convicting revisional applicants / accused had directed revisional applicant no.1 / original accused no.1 to pay fine of Rs.5,000/-, revisional applicant nos.2 and 3 / original accused nos.2 and 3 were sentenced to suffer simple imprisonment for 3 months, apart from payment of compensation of Rs.42 Lakh to the respondent / original complainant within a period of one month.

2 Heard the learned counsel appearing for revisional applicants / accused as well as respondent / original complainant. I have also heard the learned APP. The learned advocate appearing for revisional applicants as well as the learned advocate appearing for respondent no.1 / original complainant have unanimously stated that both parties have settled the matter amicably out of court and have drawn Consent Terms. They have presented the Consent Terms annexing copy of Resolution passed

by respondent no.1 / original complainant authorizing Accounts Manager Mr.Mahesh Lalit Heliya to withdraw the complaint etc. Mr.Mahesh Heliya, Accounts Manager of respondent no.1 / original complainant is present before the court and he is duly identified by the learned advocate appearing for respondent no.1. Upon being asked, Mr.Mahesh Heliya, Account Manager, has stated that respondent no.1 has decided to settle the matter and it has no objection if the impugned judgments and orders passed by the lower courts are quashed and set aside.

3 Duly signed Consent Terms are taken on record and marked Exhibit "X" for the purpose of identification.

4 The offence alleged and proved against revisional applicants / original accused is one punishable under Section 138 of the Negotiable Instruments Act. Parties have amicably settled the dispute out of court. In this view of the matter, the compromise arrived at by the parties needs to be accepted and by consent, impugned judgments and orders are required to be

quashed. As such the order :

- i) The revision application is disposed of in terms of Consent Terms marked as Exhibit “X”.
- ii) By consent, impugned judgment and order passed by the learned Metropolitan Magistrate, 50th Court, Vikhroli, Mumbai, on 19th September 2014 in Criminal Case No.2264/SS/2013 and the appellate judgment and order passed on 9th March 2016 by the learned Additional Sessions Judge, City Civil and Sessions Court, Greater Bombay, Mumbai, in Criminal Appeal No.973 of 2014 are quashed and set aside.
- iii) Revisional applicants / original accused stand acquitted of the offence punishable under Section 138 of the Negotiable Instruments Act. If any of the revisional applicants / accused is in jail, he be set at liberty forthwith, if not required in any other case.
- iv) Parties to act on authenticated copy of this order.

(A. M. BADAR, J.)