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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 282 OF 2017
IN**

CRIMINAL WRIT PETITION NO. 2273 OF 2017

K. V. Constructions and Anr. ... Petitioner

vs.

Mr. Premkantha Jha and Anr. ... Respondents

Mr. Kishor Bhatia for the Petitioner.

Ms. Archana Khan for Respondent no.1

Mr. Vinod Chate, APP for the State.

CORAM : A. K. MENON, J.

DATE : 28th JUNE, 2017

P.C.:

1. By this Criminal Writ Petition the applicant has challenged the judgment and order dated 9th January, 2017 passed by the Sessions Judge dismissing Criminal Appeal No. 305 of 2016 while upholding the judgment and order dated 20th October, 2015 passed by the Metropolitan Magistrate 58th Court, Bandra in C.C. No. 2472/SS/2005.

2. The Magistrate Court convicted the applicant of an offence under Section 138 of the Negotiable Instruments Act and ordered payment of compensation of Rs.80,000/-. This amount has been deposited by the petitioner before the Sessions Court. The accused was taken into custody. A Criminal Revision Application No. 34 of 2017 was filed in this Court which came to be dismissed as withdrawn vide order dated 22nd March, 2017. This Writ Petition is filed after the withdrawal of the Criminal Revision Application.

3. Learned Counsel for the parties appearing today state that the offence being compoundable, parties have arrived at a settlement whereby a total sum of Rs.4,34,000/- is being accepted by the original complainant – respondent no.1 who is present in Court. Consent terms signed by the parties and their Advocates are tendered. The petitioner and respondent no.1 are present. They confirm having executed the consent terms. Their signatures have been identified by their Advocates. The Consent terms are taken on record and marked as 'X' for identification.

4. Perused the consent terms which provide for payment of a sum of Rs.4,34,000/- of which a sum of Rs.80,000/- is already deposited in the Sessions Court. It is agreed that sum of Rs.80,000/- may be withdrawn by the respondent no.1 from the Sessions Court. Pay Order for the balance of Rs.3,54,000/- that has been handed over which is acknowledged by the respondent no.1.

5. In the circumstances, I pass the following order :

(i) The Writ Petition is allowed in terms of the consent terms. The order of the Sessions Court dated 9th January, 2017 and Order of Metropolitan Magistrate Court dated 20th October, 2015 are quashed and set aside.

(ii) Undertakings contained in the consent terms are accepted.

(iii) The petitioner Mr. Kiran Valjibhai Gajjar is acquitted of the offence and shall be released from Taloja Central jail.

(iv) The Petitioner shall pay costs of Rs. 4000/- to the Maharashtra State Legal Services Authority within one week from the date this order is uploaded. If costs are not paid the impugned order will revive without further orders of this court

(v) Parties including the jail authorities to act on an authenticated copy of this order.

6. Stand over to **5th July, 2017** for recording compliance.

(A. K. MENON, J.)