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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.815 OF 2014

Tarun S. Jathan

...Applicant

(Orig. Accused)

vs.

M/s. Ramesh Lodge & Another

...Respondents

.....

Mr. Shivkumar Mishra i/by Mr. Vijendra S. Jabra for the applicant.

Mr. Dharam Jumanani with Suraj Iyer and Debashree Mandpe i/by Ganesh & Co. for respondent No.1.

Mr. N.B. Patil, APP for State.

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CORAM : PRAKASH D. NAIK, J.

DATED : AUGUST 29, 2017.

P.C. :

The applicant is accused in Case No. 1045/SS/2010 filed by respondent No.1 for offence punishable under Section 138 of the Negotiable Instruments Act.

2. The applicant was convicted by the trial Court by judgment and order dated 12th June, 2013. The applicant was sentenced to suffer rigorous imprisonment for three months and was directed to pay compensation of Rs.11,30,000/-. The applicant challenged the order of conviction by preferring Revision Application before the Sessions Court. During the pendency of the said Revision

Application, the applicant has deposited an amount of Rs.2,00,000/- before the trial Court. The Revision Application was dismissed vide order dated 18th July, 2014.

3. The learned Counsel appearing for the applicant and respondent No.1 submitted that the parties have settled the dispute. It is submitted that the applicant has paid Rs.8,70,000/- to the complainant/respondent No.1 vide Demand Draft which is confirmed by respondent No.1. It is submitted that the balance amount of Rs.2,30,000/- which is deposited in the trial Court may be allowed to be withdrawn by respondent No.1 along with interest, if any, accrued on the said amount.

4. In view of the submissions, it is submitted by both the parties that the conviction order passed by the trial Court as well as the order passed by the Sessions Court confirming the said conviction may be set aside. It is further submitted that the offence is compoundable u/s. 147 of the Negotiable Instruments Act r/w. 320 of the Code of Criminal Procedure.

5. In view of the settlement arrived at between both the parties and in the light of Section 147 of the Negotiable Instruments Act as well as Section 320 of the Code of Criminal Procedure, the judgment and order of conviction passed by the trial Court and confirmed by the Sessions Court is set aside. Hence, I pass the following order :

ORDER

(i) In view of the settlement arrived at between both the parties,

the judgment and order dated 12th June, 2013 passed by the learned Metropolitan Magistrate's 59th Court Kurla, Mumbai, in C.C.No.1045/SS/2010 as well as the judgment and order dated 18th July, 2014 passed by the learned Additional Sessions Court, Greater Mumbai, in Criminal Revision Application No.711/2013 are hereby quashed and set aside and the Applicant is acquitted.

(ii) Respondent No.1 is permitted to withdraw the amount of Rs.2,30,000/- alongwith interest, if any, accrued on the said amount which has been deposited in the trial Court by the applicant herein.

(iii) Criminal Application stands disposed of.

(iv) The trial Court to act on the authenticated copy of this order.

(PRAKASH D. NAIK, J.)