

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

WRIT PETITION NO.3070 OF 2016

Ayrish Appa Bardeskar	...Petitioner
Versus	
Godavari Sugar Mills Ltd. & Anr.	...Respondents

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Mr. Satish K. Kumbhar for the Petitioner.
Mr. K.K. Jadhav for the Respondent No.1.
Mrs. N.S. Jain, APP for the Respondent No.2-State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 27th NOVEMBER, 2017.

P.C.:-

The Petitioner has challenged the order dated 21st October, 2015 whereby the learned Additional Sessions Judge, Kolhapur has dismissed his appeal being Criminal Appeal No.190 of 2011 and thus, confirmed the order of conviction dated 18th July, 2011 whereby the learned Judicial Magistrate, First Class, Gargoti has held him guilty of offence punishable under Section 138 of the Negotiable Instruments Act and sentenced him to suffer simple imprisonment for three months and to pay compensation of Rs.2,00,000/-.

2. Mr. Satish Kumbhar, the learned counsel for the Petitioner as well as Mr. K.K. Jadhav, the learned counsel for the Respondent No.1

have submitted that parties have arrived at amicable settlement. They have placed on record copy of the consent terms which read thus :-

“2. The Petitioner as per the order passed by Hon'ble Sessions Court at Kolhapur in Criminal Appeal No.190 of 2011, has deposited an amount of Rs.1,00,000(One Lakh only) in the Sessions Court. Hereto annexed and marked as “Exh. A (Colly) is the copies of receipt of amount Rs.1,00,000/- deposited in the Appellate Court.

3. The Petitioner agrees that the said amount be paid to the Respondent No.1 forthwith and Respondent No.1 be allowed to withdraw the same immediately.

4. As agreed between the parties, on 29/11/2016 the Petitioner had paid an amount of Rs.75,000/- (Seventy Five Thousand Only) to the Respondent No.1 and the Respondent No.1 has received an amount of Rs.75,000/- (Seventy Five Thousand Only) from the Petitioner. The Respondent No.1 has also issued receipt of the said amount and agreed that shall withdraw all allegations, Criminal complaints and counter allegations in the proceedings filed before this Hon'ble Court and the lower Courts. Hereto annexed and marked as “Exh.B” is the copy of Receipt of the amount issued by the Respondent No.1.

5. The parties have agreed that both the parties shall withdraw all allegations and counter allegations in the proceedings pending before this Hon'ble Court and in the lower Courts against each other.

6. Accordingly both the parties agree that the Consent Term shall be tendered in the above referred Petition. Both the parties herein agree that they will not make any further litigation against each other.”

4. The complaint under Section 138 of Negotiable Instruments Act was filed by Mr. V.J. Bastawade, Assistant Manager (Cane) on

behalf of the Respondent No.1. Mr. Bastawade is present before the Court. He has placed on record the certificate dated 25th May, 2017 whereby the Respondent No.1 has authorised him to withdraw the Petition and or to enter into settlement. The terms are signed by Mr. Bastawade and by the Petitioner and their respective counsels. The Petitioner as well as the representative of the Respondent No.1 have submitted that the consent terms are agreeable to them and that they have agreed to settle the matter as per the said consent terms. The consent terms are therefore, taken on record and marked 'X' for identification.

5. In the light of the consent terms leave is granted to compound the offence under Section 138 of the Negotiable Instruments Act.

6. The conviction and sentence passed by the learned Judicial Magistrate, First Class Gargoti in Summary Criminal Case No.386 of 2007 and confirmed in Criminal Appeal No.190 of 2011 by the learned Additional Sessions Judge, Kolhapur is hereby quashed and set aside.

7. The Petition stands disposed of in view of the above consent terms. The Petitioner to pay Rs.15,000/- to the Tata Memorial Center

within a period of two weeks from the date on which this order is uploaded.

8. The Respondent No.1 is allowed to withdraw the amount deposited by the Petitioner before the Sessions Court, Kolhapur.

(ANUJA PRABHUDESSAI, J.)