

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

**CRIMINAL APPLICATION NO. 179 OF 2017
WITH
CRIMINAL REVISION APPLICATION NO. 181 OF 2017**

M/s T.S. Plast and Anr. ... Applicants

Vs.

M/s Hamilton Housewares Pvt. Ltd. & Anr. ... Respondents

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Ms. Pushpa K. Pasi I/b Mr. Pankaj Purway for the applicant.

Mr. Shashank Choudhary I/by Sachin U. Masurkar for the Respondent No.1.

Mr. A.R. Patil, APP for the Respondent-State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 19th JUNE, 2018.

P.C.

1. The parties have settled the dispute. The proceedings are arising out of Section 138 of Negotiable Instruments Act 1881. The complaint was filed by the Respondent No.1 before the Court of Metropolitan Magistrate 33rd Court, Mumbai which was numbered as Criminal Case No. 5515/SS/2007. The learned Metropolitan Magistrate vide Judgment and Order dated 11th September, 2012 convicted the applicant for the offence punishable under Section 138 of Negotiable Instruments Act and

the applicant No.2 was sentenced to suffer simple imprisonment for one month and to pay a compensation of Rs.1,53,750/- to the complainant. Thereafter, the said judgment was challenged before the Sessions Court by preferring an appeal bearing Criminal Appeal No. 631 of 2012 which was dismissed vide Judgment and Order dated 30th January, 2017 confirming the conviction order of the trial Court.

2. The applicant has thereafter preferred the present Revision Application challenging the order passed by the Courts below. The applicant also preferred Criminal Application No.179 of 2017 for suspension of sentence. This Court, by order dated 29th March, 2017 directed the applicant to deposit an amount of Rs.1,53,750/- excluding the amount which is already said to have been deposited. On such condition, the sentence awarded by the trial court was suspended till the next date of hearing. The said interim order was continued thereafter.

3. The parties have settled the dispute. Consent terms are executed on 19th June, 2018. The same are placed on record and marked as "X" for identification. As per the consent terms, the parties have settled the dispute for an amount of Rs.1,53,750/-. The complainant has agreed that in view of the consent terms, the

complainant would not have any claimed against accused and he has no objection for quashing the proceedings which are subject matter of this Criminal Revision Application. The consent terms also mention that there is no claim or counter claim against each other in relation to the present proceedings and that the complainant be allowed to withdraw the amount deposited by the revision applicant before the Sessions Court and this Court.

4. Taking into consideration, the consent terms executed by the parties, the proceedings can be allowed to be compounded. The consent terms clearly stipulate that the disputes have been amicably settled. The complainant and the accused are present in the Court. Both parties have confirmed the contents of the consent terms. In the circumstances, prayer for compounding and setting aside the order of conviction can be allowed. Hence, I pass the following order.

ORDER

i) In view of the consent terms and in accordance with Section 147 of the Negotiable Instruments Act, the Judgment and Order dated 11th September, 2012 passed by the Metropolitan Magistrate, 33rd Court at Ballard Pier, Mumbai in Criminal Case No. 5515/SS/2007 convicting the revision applicant for the

offence under Section 138 of Negotiable Instruments Act as well as the Judgment and Order dated 30th January, 2017 passed by the Additional Sessions Judge in Criminal Appeal No. 631/2012 are set aside and the revision applicant is acquitted.

ii) The respondent No.1-complainant is allowed to withdraw the amount deposited by the revision applicant before the Sessions Court as well as in this Court towards compensation.

iii) The Criminal Revision Application No.181 of 2017 as well as Criminal Application No. 179 of 2017 stand disposed of.

(PRAKASH D. NAIK, J.)