

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 501 OF 2017

Ashapura Option Pvt. Ltd and othersApplicants

V/s.

State of Maharashtra and anotherRespondents

Mr. Mahendra Swar for applicants.

Mr. Y. Y. Dabke APP for the State.

Mr. Dipen F. i/b Vijay D. Upadhyay for respondent no. 2.

CORAM : NITIN W. SAMBRE, J.

DATE : FEBRUARY 27, 2018.

P.C.

The learned counsel for the applicant submits that the order of issuance of process for an offence punishable under section 138 of Negotiable Instruments Act, 1881 is questioned in the present proceedings.

2 It is claimed that parties have amicably settled the dispute as applicant has performed his part of obligation as reflected in the consent terms.

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3 So as to substantiate his contentions, he would invite attention of this Court to earlier orders which speaks of filing of consent terms and the obligation discharged by the present applicant.

4 The learned counsel for the respondent submits that original complainant viz. respondent no. 2 has already received the keys of the flat in question towards consideration of which the disputed cheque was issued. According to him no grievance is left to be agitated against the applicant. He submits that the present application can be allowed.

5 Complainant is present in the Court and is identified by his counsel. He has produced his Aadhar Card disclosing his identity, bearing no. 9224 2761 9968. The Aadhar Card further discloses his address as:

“Vishwas Karma Chawl, Kohinoor Society, Devipada Road, near fish market, Borivali East, S.O, Mumbai, Maharashtra – 400 066”.

6 Seen consent terms. Both the learned counsel in categorical terms accept that respective obligations mentioned in the consent terms are discharged by the parties. The learned counsel for the respondent no. 2 viz. Complainant consent for quashing of the order impugned whereby process was ordered to be issued under section 138 of the Negotiable Instruments Act.

7 In the background, in my opinion, the prayer of the learned counsel for the applicant needs to be granted. The impugned order dated 28/08/2014 passed in C.C. No. 4303210/SS/2014 which is subsequently renumbered as 2115/SS/2015 pending on the file of 43rd Court, Metropolitan Magistrate, Borivali, is hereby quashed and set aside.

8 The application stands disposed of accordingly.

[NITIN W. SAMBRE, J.]