

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION No.1793 of 2017

* Balasaheb s/o Narayan Kakde,
Age 45 years,
Occupation : Labour,
R/o Bhabaleshwar (Khalwdi),
Taluka Rahata,
District Ahmednagar. **.. Petitioner.**

Versus

1) Jyoti Sahakari Patsanstha
Kopargaon,
Branch Kolhar Bk.
Through its authorised person
Ratan Rambhau Choudhari
Age 47 years,
Occupation: Service,
Taluka Rahata,
District Ahmednagar.

2) The State of Maharashtra.. **.. Respondents.**

Shri. Rajendra S. Kasar, Advocate, for petitioner.

Shri. R.A. Tambe, Advocate, for respondent No.1.

Shri. S.B. Yawalkar, Additional Public Prosecutor, for
respondent No.2.

Coram: T.V. NALAWADE, J.

Date: 15 MARCH 2019

JUDGMENT:

1) Rule, Rule made returnable forthwith. By consent heard both the sides for final disposal.

2) The petition is filed by the applicant of Cri. Misc. Delay Application No.7/2016 which was pending in the Court of the learned Additional Sessions Judge Kopergaon. The application was filed for condonation of delay caused in filing appeal against the judgment and order of conviction given to the petitioner for offence punishable under section 138 of the Negotiable Instruments Act. The cheque was given by the present petitioner to one cooperative credit society. The learned Additional Sessions Judge rejected the application filed for condonation of delay.

3) The submissions made and the record show that the parties have settled the dispute and the petitioner has paid the dues to the satisfaction of the cooperative credit society and the society has given no objection for grant of the relief claimed by the petitioner. Today, copy of

no dues certificate issued by the society in respect of petitioner dated 9 October 2018 is produced. It is taken on record. Considering the nature of the matter and the law settled on this point this Court holds that the relief needs to be granted.

4) In the result, the petition is allowed. The order made by the learned Additional Sessions Judge in Cri. Misc. Delay Application No.7/2016 rejecting the said application is set aside. The said application stands allowed. The matter itself stands quashed and set aside as the parties have compounded the offence. The relief of setting aside conviction was claimed but it was deleted. Leave is granted to amend the prayer clause. Amendment to be made forthwith. The conviction is also set aside. Rule is made absolute in those terms.

Sd/-
(T.V. NALAWADE, J.)

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