

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

CRIMINAL APPEAL NO.512 OF 2002

Dilip Madhavrao Homkar and Anr.Appellants/Complainants
V/s.
Suryakant @ Bandu Vasudeo Dighe & Anr.Respondents/Accused

Mr. Arjun Singh Thakur i/b. Mr. Rathore Sunil Kumar for appellants.
Mr. P.J. Pawar for respondent no.1.
Ms. Pallavi Dabholkar, APP for State – respondent no.2.

**CORAM : K.R.SHRIRAM, J.
DATE : 13th DECEMBER 2019**

P.C.:

1 This is an appeal impugning an order of acquittal passed on 9th May 2000 by the Second Additional Sessions Judge, Satara, who had set aside an order passed by the Learned Judicial Magistrate First Class, Wai. The Trial Court had convicted respondent in this appeal for an offence under Section 138 of the Negotiable Instruments Act, 1881.

2 After the appeal was heard on 5th December 2019, the learned counsel requested the matter be stood over to see whether the matter could be worked out. Mr. Thakur appearing for appellants states that respondent no.1 has, as recorded in the order dated 5th December 2019, handed over a pay order for Rs.25,000/- drawn in favour of appellant no.2 - Sau. Kanchan Parsharam Gadekar. Mr. Thakur states that Mr. Pawar, learned counsel for respondent no.1, handed over the pay order this morning.

3 A photocopy of the pay order is taken on record and marked "X" for identification. For ease of reference, pay order is scanned and reproduced hereinbelow :

207
13/12/19

Coram :- Shri K. R. Shiriram J
Date :- 13 DEC 2019
Tendered in court by
the Advocate for the
appellant.
13/12/19
(A. Shankar)

केवल मावला के खाते में
A00034010 SHIVAJINAGAR
994070
MRS KANCHAN PARSHURAM GADEKAR*****
11/12/2019
D D M M Y Y Y Y
को या उनके आदेश पर OR ORDER
*****25000.00
₹
Purchaser Name: SURYAKANT DIGHE
अदा करे FOR VALUE RECEIVED
30 D J 4
OT TT TL
बैंक ऑफ़ महाराष्ट्र FOR BANK OF MAHARASHTRA
0101-MUMBAI SERVICE BRANCH
-2017 को
प्राधिकृत अधिकारी / AUTHORISED OFFICIAL S
Please sign above
॥ 994070 ॥ 0000 14.000 ॥ 16

4 There is no prohibition, in my view, in the act against compounding of an offence punishable under Section 138 of the Negotiable Instruments Act. In the absence of any such prohibition, where the Court finds that the parties have settled the matter and where the complainant being present before the Court submits before the Court that the accused had paid him the money, which was to have been paid, and he is satisfied with the amount paid, it would be appropriate to allow the parties to compound, rather than negating such a joint request made by the parties. As held in *M. Rangaswamaiah V/s. R. Shettappa*¹, it would be legally permissible for the parties to compound the offence punishable under Section 138 of the Negotiable Instruments Act, 1881.

5 In the circumstances, appeal disposed accordingly.

(K.R. SHRIRAM, J.)

1. 2002 Cr.L.J.4792 (Karn.)