

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE SIDE****CRIMINAL APPEAL NO.639 OF 2002**

M/s.NTB Bowsmith Irrigation Ltd.)....Appellant

V/s.

State of Maharashtra & Ors.)....Respondents

Mr.S.G.Surana for appellant.

Mr.Niranjan Mundargi i/by Mr.Ashish S.Sawant for respondent no.3.

Ms.Anamika Malhotra APP for State-respondent no.1.

CORAM : K.R.SHRIRAM,J

DATE : 19.11.2019

P.C.:-

1. By consent, the following order is passed :-

ORDER

(i) The impugned judgment dated 31.8.2000 is set aside. The matter is remanded back to the Magistrate who shall also consider whether the complainant had the authority to file the complaint ;

(ii) If the Court requires, the complainant shall produce the original of the Minutes book for the Court's perusal to confirm whether the certified extract of the resolution authorizing the Manager to file the complaint is a true extract ;

(iii) On or before 7.12.2019 the complainant shall also give inspection

of the Minutes book of board resolution ;

(iv) Considering the board resolution and the evidence already recorded, the Court will reassess whether the complainant had the authority to file the complaint and also give its findings as to whether the complainant has satisfied the Court that the ingredients of Section 138 of the Negotiable Instruments Act have been fulfilled ;

(v) Appeal accordingly disposed ;

2. Registry of the High Court shall return the record & proceeding in this matter at the earliest and in any case within two weeks from today. Time is the essence since the dispute goes back to year 1995. Therefore, JMFC, 4th Court at Pune shall dispose of the matter on or before 15.2.2020.

3. Parties shall appear before the JMFC, 4th Court at Pune on 13.12.2019.

(K.R.SHRIRAM,J)