

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

915 CRIMINAL WRIT PETITION NO.1099 OF 2022

BHOJIRAM LALU JADHAV
VERSUS
NARSING SHIVLAL CHAVAN

...
Advocate for Petitioner : Mr. B. G. Sagade.
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CORAM : **SHRIKANT D. KULKARNI, J.**

DATE : 08th September, 2022.

PER COURT:

. Head Mr. B. G. Sagade, learned counsel for the petitioner.

2 The learned counsel for the petitioner invited my attention to the copy of amicable settlement between the parties (page No.27) Exhibit-B. He submitted that he had given an application before the learned Magistrate in S.C.C. No.8774 of 2020 and sought permission to place on record the compromise deed. Accordingly, the compromise deed was placed on record. He submitted that even then the learned Magistrate is proceeding with the case for recording of evidence and that is why he has approached this Court.

3 In the context of the argument advanced by the learned counsel for the petitioner, I have gone through the copy of compromise

deed arrived between the parties Exhibit-B (page No.27) as well as copy of application (page No.34-A). It seems that the present petitioner/ original accused sought permission before the learned Judicial Magistrate First Class, Aurangabad to place on record the compromise deed. The learned Magistrate was pleased to allow the production and permitted to the present petitioner/accused to place on record compromise deed. However, it is noticed that no formal application is moved on behalf of the petitioner/accused with a prayer to dismiss the complaint in view of amicable settlement arrived between the parties. Unless and until that application is moved before the learned Magistrate, the learned Magistrate may face difficulty to pass the order regarding disposal of the case. Either of the parties should move the Court to dispose of the complaint in the background of amicable settlement between the parties.

4 Let the petitioner file such formal application before the learned Magistrate regarding disposal of the complaint in the background of amicable settlement between the parties. In case, his application is rejected, he is at liberty to approach this Court.

5 Having regard to the above observations, I proceed to pass the following order:

ORDER

- I. The criminal writ petition stands disposed of.
- II. The petitioner / original accused is permitted to file formal application before the learned Judicial Magistrate First Class, Aurangabad in S.C.C. No.8774 of 2020 to dispose of the complaint filed under Section 138 of the Negotiable Instruments Act in view of amicable settlement between the parties and the learned Magistrate to decide the same after giving an opportunity of being heard to both the sides.
- III. In case, such application is rejected by the learned Judicial Magistrate First Class, Aurangabad, the petitioner is at liberty to approach this Court.
- IV. The criminal writ petition is accordingly disposed of.

[SHRIKANT D. KULKARNI, J.]

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