

Nikita

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

WRIT PETITION NO.1354 OF 2023

Kozo Papers Pvt. Ltd. & Anr.

... Petitioners

V/s.

The State of Maharashtra & Anr.

... Respondentsxf

Mr. Udayan Shah a/w Manish Mirpuri and Heena Khan
i/b Premier Legal Practices for the Petitioners.

Ms. M.R. Tidke, APP for the State.

CORAM : AMIT BORKAR, J.

DATED : APRIL 18, 2023

P.C.:

1. The petition is directed against the legality and validity of institution of proceedings. The proceedings are under Section 138 of Negotiable Instruments Act, 1881. The maintainability of complaint is challenged on the ground that there is material difference in the ledger account which was the basis of institution of complaint under Section 138 of Negotiable Instruments Act, 1881.

2. Prima facie the ingredients of offenses under Section 138 of Negotiable Instruments Act, 1881 have been fulfilled. Considering the averments in the complaint, the extent of legally recoverable liability needs to be adjudicated during trial. The extent of legally recoverable liability being question of fact. The inconsistency in

ledger account cannot be a ground to assail maintainability of complaint under Section 138 of Negotiable Instruments Act, 1881. There is no miscarriage of justice.

3. The writ petition is therefore dismissed. No costs

(AMIT BORKAR, J.)