



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 513 OF 2025
IN REVN/124/2024

Shatrughna Gabaji Kharpude
Age: 75 years, Occu.: Business,
R/o. A/p. Nagardeole, Tq.Nagar,
Dist.Ahmednagar.

....Applicant
(Original Complainant)

Versus

1. Shri Bhavani Agri Agro and Milk
Products Pvt. Ltd., Through its
representative Shri Sambhaji Rambhau Lagad
Age: 53 years, Occu.: Business,
R/o. Vinayak Nagar, Samta Colony,
Andhale Choure Apartment in front
of Anandbad, Fulsoundar Mala,
Ahmednagar.

2. Shri Bhavani Agri Agro and Milk
Products Pvt. Ltd., Through its
representative Shri Namdeo Damu More
Age: 73 years, Occu.: Business,
R/o. Post Athawad, Tq.Nagar,
Dist.Ahmednagar.

.....Respondent

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Advocate for Applicant : Mr. Pramod S. Gaikwad

Advocate for Respondents : Mr.Ajinkya Kale h/f. Talekar & Associates

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CORAM : ABHAY S. WAGHWASE, J.

DATE : 27-02-2025

ORDER :

1. Instant application is preferred by the applicant / original

complainant for withdrawal of Rs.3,77,220/- deposited by the respondents as per directions of this Court by order dated 07-05-2024 while suspending the sentence imposed on accused.

2. The applicant is original complainant and he is running Tuljabhavani Milk Collection Centre. He is involved in business of collecting milk from the farmers and supplying the said milk to the dairy. He used to supply milk to the dairy of accused namely Shri Bhavani Agro and Milk Products Pvt. Ltd., Ahmednagar and accused used to make payment for the said supply of milk. As such, there was business relations between complainant and accused. Complainant supplied milk to the accused Society for the period from 01-04-2015 to 31-03-2016 and the total payment of Rs.59,17,395/- was due towards milk supply. The accused has made payment of Rs.39,49,151/- to complainant. Complainant had taken advance of Rs.82,147/- from accused. As such, there was balance of Rs.18,86,097/-. Complainant repeatedly demanded the balance amount, but accused avoided to make payment. On 28-04-2016, accused issued cheque of Rs.18,86,097/-, but on its deposit, the same was returned with remark "funds insufficient". After giving information to the accused about this, accused suggested to deposit

cheque after 5-6 days. However, on depositing the same, again the cheque was returned with the same remark. Therefore, complainant had issued demand notice on 20-07-2016 and accused no.1, 2 and 3 had received the same on 22-07-2016 and 25-07-2016 respectively, but accused no.4 refused to take notice and thus, failed to make payment. Therefore, complainant filed proceedings under Section 138 of the Negotiable Instruments Act (NI Act) against the respondents.

After hearing both the sides and on going through the record, it appears that learned Judicial Magistrate First Class (JMFC) (Court No.3), Ahmednagar, by its order dated 17-01-2023, held present respondents guilty for the offence punishable under Section 138 of the NI Act.

Accused preferred Criminal Appeal No.59 of 2023 against the decision of the learned JMFC. However, learned Additional Sessions Judge, Ahmednagar, dismissed the said appeal by its order dated 22-04-2024.

Accused then preferred Criminal Revision Application No.124 of 2024 challenging the decision of the learned Additional Sessions Judge, Ahmednagar. During pendency of the revision application,

accused also preferred Criminal Application No.1908 of 2024 for suspension of sentence. This Court, by its order dated 07-05-2024, allowed the application for suspension of sentence subject to deposit of 20% amount of the cheque. It is submitted that, accused deposited the said amount.

3. The complainant has filed present application seeking permission for withdrawal of Rs.3,77,220/- deposited by the respondents accused in the trial Court.

4. Learned counsel for the respondents has no objection for withdrawal of the aforesaid amount.

5. In view of above, application for withdrawal of amount is allowed in terms of prayer clause "B" of the application.

(ABHAY S. WAGHWASE)
JUDGE