

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

Criminal Writ Petition No. 3690 of 2025

Mr. Dinesh Kumar s/o Kishan Lal ... Petitioner

V/s.

M/s. Omkara ARC Pvt. Ltd. & anr. ... Respondents.

Mr. Subhradeep Banerjee a/w. Sudhakar Pandaram	Advocates for the Petitioner.
Mr. C.D. mali	APP for the State.

CORAM : S.M. MODAK, J

DATE : 15th July 2025.

P.C. :

Heard learned Advocate for the Petitioner-accused.

2. The only contention raised is abuse of process of law in continuing the prosecution for an offence under Section 138 of the Negotiable Instrument Act. This complaint was filed in the year 2016 before the Court of Metropolitan Magistrate Ballard Pier, Mumbai. Now the stage has arrived at for recording of evidence. The grievance is there is a private complaint filed by the same complainant against the present Petitioner before the Court of Metropolitan Magistrate, 19th Court, Calcutta. It was for an offence under Section 406, 420 of IPC.

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3. Both the parties have settled the dispute and the complaint is compounded and present Petitioner has been acquitted. The order is passed on 27th February 2020. It is on page-263.

4. The contention is once the matter is settled before Calcutta Court, the Complainant ought to have withdrawn the present complaint. The Petitioner may be correct in his submission but the time spent in filing this petition goes against him. He cannot take recourse to the Constitutional Court. Best option before him is to agitate his grievance before the trial Court by way of cross-examining the witness.

5. In view of that the petition is dismissed. If the issue is raised before the trial Court, the trial Court to decide it as per the merits.

(S.M. MODAK, J.)