

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 1086 of 2015

- Mukesh Banshiwala S/o Late Kishan Lal Banshiwala Aged About 52 Years R/o R D A Colony, Tikrapara, P.S. Tikrapara, Tahsil & District Raipur Chhattisgarh Civil & Revenue District Raipur Chhattisgarh

---- Applicant

Versus

- Laxman Das Motwani S/o Late Pulchand Motwani Aged About 71 Years R/o House No. C/36, Sector -1, Shankar Nagar, Police Station Civil Lines, Raipur, Tahsil & District Raipur Chhattisgarh
- State Of Chhattisgarh Through The Collector, Raipur, District Raipur Chhattisgarh

---- Respondents

For Applicant	: Shri B.P.Sharma, Advocate
For Respondent No.1	: None present.
For Respondent No.2/State	: Shri Vivek Sharma, G.A.

Hon'ble Shri Justice Pritinker Diwaker

Order On Board

11/12/2015

Vide judgment and order dated 15.10.2015 passed in Criminal Case No. 359/2012, the trial Magistrate had convicted the applicant under Section 138 of the Negotiable Instrument Act and has sentenced him to undergo SI for five months and also directed the applicant to pay compensation of Rs. 2,00,000/- to respondent No.1 and in default of payment of compensation to further undergo SI for three months. The applicant has assailed this order before the 7th Additional Sessions Judge, Raipur and he had also filed application under Section 389(1) of the Cr.P.C. on 26.10.2015 praying in it that till the final decision of the appeal, he be released on bail and order imposing compensation be also stayed.

2. Vide order dated 28.10.2015 the concerned Additional Sessions Judge has though suspended the sentence imposed upon the applicant but has not passed any order regarding the payment of compensation amount.

3. Counsel for the applicant submits that it is this order which has been challenged by the applicant in this revision. He submits that the appellate

court was under the obligation to decide the application as filed by the applicant and was obliged to pass order in either way. He further submits that the court below has erred in law in not passing any order regarding imposition of fine amount and therefore the matter may be remitted back to the Sessions court for deciding the pending application of the applicant on that point.

4. Counsel for the State has no objection if the matter is remitted back to the Sessions Court for deciding his application. He submits that the case is already fixed for 17th December 2015 and the Sessions Court if decides the appeal of the applicant finally, there is no need to decide the imposition of fine amount.

5. Be that as it may, once the application was filed before the court below, it ought to have decided the said application either way. Without further entering into the merits of the case, the appellate court below is directed to decide the application as filed by the applicant in respect of the imposition of fine amount after hearing the counsel for the parties.

6. It is also expected from the appellate court to decide the main case itself expeditiously without any undue delay.

7. With the said observation, the revision is disposed of.

8. It is made clear that this Court has not expressed any opinion on the merits of the application as filed by the applicant stating the imposition of the fine amount and it would be up to the appellate court to decide the application in accordance with law.

Sd/-
Pritinker Diwaker
Judge