

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

Criminal Application No.456 of 2014

Madhavrao S/o Pandurang Nimse. .. **Applicant.**

Versus

Ganesh Babanrao @ Wamanrao Sawant
And Another. .. **Respondents.**

Shri. R.C. Patil, Advocate, for applicant.

Shri. B.R. Warma, Advocate, for respondent No.1.

Shri. U.H. Bhogle, Additional Public Prosecutor, for
respondent No.2.

CORAM: T.V. NALAWADE, J.

DATE : 11^h JUNE 2015

ORDER:

1) The application is filed to challenge the order of learned Additional Sessions Judge Dhule made on Exhibit 4 in Criminal Appeal No.676/2009. The appeal is filed by the present applicant against the judgment and order of the learned Judicial Magistrate, First Class given in a case filed under section 138 of Negotiable Instruments Act. The case was file din respect of a cheque of Rs.2.5 lakh

issued by the applicant which bounced. The learned Judicial Magistrate has convicted the applicant and the applicant is sentenced to suffer simple imprisonment for 6 months and he is directed to pay compensation amount of Rs.2,40,500/- to the complainant under section 357(3) of the Code of Criminal Procedure. In default of payment of compensation further simple imprisonment of one month is given. The learned Additional Sessions Judge has suspended the substantive sentence after admitting the appeal and directed to pay 50% of the compensation directed by the Judicial Magistrate. Time of one month was given by the learned Additional Sessions Judge when the order was made in the appeal on 4-7-2009. It appears that till today the order is not complied with.

2) The present proceeding came to be filed on 22-1-2014. It can be said that the applicant first got bail in the appeal from the Sessions Court and then did not turn up and he approached this Court in the year 2014.

3) Learned counsel for the applicant submits that the applicant is a poor person and he is not in a position

to deposit 50% of the amount viz. Rs.1,20,250/- as directed by the learned Additional Sessions Judge. He submits that the applicant is in a position to deposit only Rs.10,000/-.

4) Suspension of sentence is within the discretion of the Court and it is settled law that Court suspending such sentence is expected to ask the convict to deposit reasonable amount. 50% of the amount is to be deposited by the applicant, accused and so it cannot be said that the order is not reasonable. In view of these circumstances this Court sees no reason to interfere in the order made by the Sessions Court. In the result, the application stands dismissed.

Sd/-
(T.V. NALAWADE, J.)

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