

IN THE HIGH COURT OF BOMBAY AT GOA

STAMP NUMBER MAIN NO. 968 OF 2015

SHRI CHINDAMADA UDAY RAMU. ... Appellant
Versus
THE LOKMANYA MULTIPURPOSE
CO-OPERATIVE SOCIETY LTD.
THR.BRANCH MANAGER MR.RAVINDRA V.
L. AND ANR., ... Respondents

Shri Rohan Pandurang Desai, Advocate for the Applicant.
Shri S. Chopdekar, Advocate for the Respondent No. 1.

Coram:- C. V. BHADANG, J.

Date:- 29th June, 2015

P.C:

By this application, the applicant-original accused is challenging the order dated 25.11.2014, passed by the learned Additional Sessions Judge at Margao, by which the appeal filed by the applicant has been dismissed.

2. The brief facts are that the applicant was convicted by the learned Magistrate for the offence punishable under Section 138 of the Negotiable Instruments Act, and directing the applicant to undergo simple imprisonment for a period of 15 days and to pay compensation of Rs.18,36,044/- and in default to suffer simple imprisonment for further period of 5 days.

3. It appears that in the appeal being Criminal Appeal No. 132/2013, the sentence was suspended on condition of the applicant depositing

10% of the amount of compensation. However, as the applicant failed to comply with the said order and also on account of his non appearance, the appeal came to be dismissed on 25.11.2014. That order is the subject matter of challenge in this criminal revision.

4. It is submitted that the applicant is ailing and is admitted in the hospital and on account of his financial difficulties, he could not comply with the order. The learned Counsel submitted that the applicant would deposit the amount of Rs. 3,00,000/- (Rupees Three Lakhs only), before the Additional Sessions Court, within a period of three weeks and the appeal be directed to be heard on merits.

5. The learned Counsel for the first respondent submits that although, there was an order directing suspension of sentence on certain conditions, the applicant did not comply with the same. Alternatively, it is submitted that appropriate order may be passed.

6. On hearing the learned Counsel for the parties, it appears that there was already an order of suspension of sentence on condition of the applicant depositing 10% of the compensation amount, which comes to about Rs.1,80,000/-. Now, the applicant has shown willingness to deposit Rs. 3,00,000/-. It is advisable that matters are heard on merits rather than on technicality. I find that the appeal can be restored to file on certain conditions.

7. In the circumstances, the following order is passed:

- (a) The revision application is allowed.
- (b) The impugned order dated 25.11.2014, passed by the Additional Sessions Judge, Margao in Criminal Appeal No. 132/2013, is hereby set aside, on condition of the applicant depositing an amount of Rs.3,00,000/- before the learned Additional Sessions Judge, Margao, within a period of three weeks.
- (c) Criminal Appeal No. 132/2013 is restored to the file of the learned Additional Sessions Judge, Margao, for disposal in accordance with law.
- (d) The deposit of Rs.3,00,000/- is a condition precedent to the restoration of appeal.
- (e) The parties to appear before the learned Additional Sessions Judge, Margao on 13.07.2015.

8. The revision application stands disposed of in aforesaid terms, with no order as to costs.

C. V. BHADANG, J.

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