

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

**CRIMINAL APPLICATION NO. 214 OF 2015
WITH
CRIMINAL APPLICATION NO.215 of 2015
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CRIMINAL APPLICATION NO. 218 OF 2015**

Unity Infraprojects Limited and ors .. Applicants

Versus

The State of Maharashtra & Anr .. Respondents

Ms.Poonam Ankleshwaria, Advocate for the applicants.

Ms.Archana Deshpande, Advocate for the respondent no.2 – Bajaj Finance Limited.

Mrs.M.R.Tidke, APP for the Respondent State.

CORAM : ABHAY M. THIPSAY, J.

DATED : 7th APRIL, 2015

P.C. :

1 All these applications can be conveniently disposed of by this common order as the parties are the same, and the questions needing determination are also the same.

2 The applicants are the accused in various cases pending before the Metropolitan Magistrate, 7th Court at Dadar. The respondent no.2 is the complainant in all the cases. The cases are in respect of an offence punishable under section 138 of the Negotiable Instruments Act. The applicants appeared before the Magistrate when the Magistrate, as and by way of security for their appearance before him, directed them to execute personal bonds with cash deposit or surety in all the cases. In two of the cases, the Magistrate directed them to execute personal bonds in the sum of Rs.3,00,000/- each, with a cash deposit or surety in the sum of Rs.2,00,000/-. In the remaining cases, the Magistrate directed the applicants to execute personal bonds in the sum of Rs.2,00,000/- each with a cash deposit or surety bond of Rs.1,00,000/-. The applicants are aggrieved by the orders passed by the Magistrate in that regard, as according to the applicants, the amount of security that is being demanded by the Magistrate is excessive and oppressive.

3 I have heard Ms.Poonam Ankleshwaria, the learned counsel for the applicants. I have heard Ms.Archana Deshpande, the learned counsel for the respondent no.2 – original complainant. I have gone through the orders passed by the Magistrate, requiring the applicants to give security.

4 It is nobody's case that the applicants had absconded or had refused to remain present before the Magistrate. It is not in dispute that the applicants appeared before the Magistrate in obedience to the summons issued by him, and voluntarily offered to give security for their appearance.

5 The cases against the applicants are initiated on the basis of complaints. The offences allegedly committed by the applicants are triable summarily. It is not necessary in such cases that the accused persons must necessarily be put under any restraint, but nevertheless, the Magistrate does have a power to require security for appearance to be given even in such cases. Ordinarily, the Magistrate, in such cases, should be satisfied only on the accused persons executing personal bonds.

6 I am informed that in two of the cases, apart from executing personal bonds, the applicants have deposited cash of Rs.50,000/- each, as and by way of security. I am also informed that in the other cases, apart from executing the personal bonds in the amount stipulated by the Magistrate, the applicants have deposited cash of Rs.25,000/- each.

7 In my opinion, the security already given by the applicants, is sufficient. Insisting on a higher amount of security, is totally uncalled for and unreasonable.

8 Moreover, I am informed that talks of settlement are also going on between the parties.

9 Under these circumstances, I am inclined to allow the applications.

10 Applications are allowed.

11 The Magistrate shall treat the security as given by the applicants already, as sufficient, and shall not insist on any additional cash security or surety from any of the applicants.

12 Needless to say, in case of breach of the bond for appearance executed by the applicants, or any of them, the Magistrate may take further appropriate action in the matter, in accordance with law.

13 Applications are allowed in the aforesaid terms.

(ABHAY M.THIPSAY, J)