

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

CRI. REVISION APPLICATION NO. 106 OF 2015

Shri Anil Vitthal Ubhe

... Applicant.
(Org.Accused)

V/s.

Sou. Nanda Ashok Bhattad & Anr.

... Respondents.

Mr. Vilas B. Tapkir, Advocate for the Applicant.

Mr. A. R. Patil, APP for the State.

CORAM : M.L.TAHALIYANI,J.

DATE : 24th MARCH, 2015

P.C. :

1 Heard learned Advocate for the Applicant and the learned additional public prosecutor for the State.

2 This revision application impugns the order passed by the Sessions Court of Pune, dismissing the appeal filed by the applicant against the judgment and order passed by the Judicial Magistrate, First Class, convicting the applicant for the offence punishable under section 138 of the Negotiable Instruments Act and sentencing him to undergo simple imprisonment for a period of two months and to pay fine of Rs.18,500/-. It is submitted by the learned counsel for the applicant that the fine amount has been paid by the applicant

and the compensation ordered to be paid to the respondent no.1 / complainant has also been received by the respondent no.1. Respondent no. 1 is absent though she is served. Affidavit of service is filed. The same be taken on record.

3 The applicant is in custody from 2nd March,2015. In my opinion, he has already suffered considerable punishment considering the cheque amount, which is of meager in nature. Hence, I am inclined to modify the order passed by the Judicial Magistrate, First Class, and pass the following order :

- i. The conviction of the applicant for the offence punishable under section 138 of the Negotiable Instruments Act is maintained.
- ii. The order of simple imprisonment of two months is set aside. The order in respect of the fine is maintained.
- iii. The applicant shall undergo a simple imprisonment for a period already undergone by him and shall pay fine also of Rs.18,500/-.
- iv. Fine is already paid, the applicant shall be released from prison forthwith, if not required in any other case.

Amount of Rs.18,500/- , if not released, be released to the Respondent No.1.

4 Criminal revision application is disposed of in the above terms.

(JUDGE)

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