

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

**CRIMINAL APPLICATION NO. 351 OF 2015
IN
CRIMINAL REVISION APPLICATION NO. 175 OF 2015**

Ms. Surbhi Sanjiv Sharma	.. Applicant
In the matter of	
Darshan Bharat Churiwala & Anr.	.. Applicants
v/s.	
Sanjiv Ramesh Sharma	..Respondent

Mr. Subhash Jha a/w Ms. Rushita Jain for Law Global for the applicants

Mr. Abad Ponda a/w Neeta Parikh for the respondent

Mr. H.J. Dedhia, APP for respondent State

**CORAM: SMT. ANUJA PRABHUDESSAI, J.
DATED: 23rd OCTOBER, 2015.**

P.C.

1. By this application, the applicant - original complainant has sought leave to withdraw Rs.50 lakhs deposited by the applicant in the Court of the learned Metropolitan Magistrate during the pendency of the Revision Application.

2. Heard the learned Counsel Mr. Jha for the applicant. The learned Counsel Mr. Jha has submitted that applicant, who is the

daughter of the original complainant, needs the money for her marriage and to settle the younger brother in the business. The learned Counsel Mr. Jha has submitted that considering the compelling circumstances, the amount deposited by the applicant – original accused be paid to the applicant during the pendency of the revision application.

3. The learned Counsel Mr. Ponda has opposed the application on the ground that the applicant has no right to claim the said amount and that the respondent - accused has excellent chance in succeeding in the Revision Application.

4. I have considered the submissions advanced by the respective Counsels. It is an undisputed fact that the applicant has been convicted for the offence under Section 138 of the N.I. Act and has been sentenced to undergo imprisonment for the period of 3 months and to pay compensation of Rs.4,98,00,000/-. The appeal filed against the said order has been dismissed and as

consequence thereof, the conviction and sentence has been upheld. Thus, there are concurrent findings that the cheque issued by the respondent accused was towards discharge of legally enforceable debt. Considering this fact so also the reasons stated in para 10 of the application, in my considered view, there is no impediment in releasing the amount of Rs.50 lakhs to the applicant.

5. Hence, the application is allowed. The amount of Rs.50 lakhs deposited by the accused respondent is ordered to be paid to the applicant on filing an application and giving an undertaking to return the said amount to the respondent no.1 accused with interest at the rate charged / levied by the nationalized bank, from the date of the receipt of the order, till the date of repayment.

6. The learned Metropolitan Magistrate to dispose of the application within a period of 2 weeks from the date of the filing of the application.

7. The Criminal Application stands disposed of.

(ANUJA PRABHUDESSAI, J.)