

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.4173 OF 2014

M/s.Prakash Automobiles & Anr. .. Petitioners

-Versus-

Madhusudan Mohanlal Dave and Anr. .. Respondents

WITH

REVISION APPLICATION NO.358 OF 2014

WITH

APPLICATION NO.304 OF 2014
IN
REVISION APPLICATION NO.358 OF 2014

WITH

APPLICATION NO.305 OF 2014
IN
REVISION APPLICATION NO.358 OF 2014

Mr.K.K.Holambe Patil for petitioners/ applicants
Mr.D.R.More, APP for State.

CORAM : M.L.TAHILIYANI, J.

DATE : 12th January 2015.

P.C.

1] The petition is filed by the original accused in Criminal

Case No.1015/SS/2006 decided by the learned Metropolitan Magistrate, 43rd Court, Borivali. By the judgement and order, the learned Magistrate found both the petitioners guilty of offences punishable under sections 138 read with 141 of the Negotiable Instruments Act. The petitioner No.2 Mr.Gautam Bhanu was ordered to undergo sentence of six months and the petitioner Nos. 1 and 2 both were ordered to pay compensation of Rs.2,50,000/- to respondent No.1.

2] The petitioners filed an appeal before the Sessions Court, Mumbai. The appeal being Appeal No.37 of 2013 was dismissed. The respondent No.1 Mudhusudan Dave had filed a revision application against the judgement and order of the Magistrate for enhancement of compensation amount. The said revision application was allowed and compensation was increased from Rs.2,50,000/- to Rs.3,50,000/-. Hence the present writ petition has been filed. The revision application has been filed to challenge the dismissal of appeal.

3] Mr.Holambe Patil, learned Counsel for petitioners and the

applicants in the revision application is heard. The learned Counsel for respondent No.1, Madhusudhan Dave is absent. Mr.Patil has submitted that the petitioner may not contest the petition and revision on merits but may pray for leniency in the matter of sentence. It is also submitted that this Court may enhance compensation amount and consider leniency in jail sentence. After hearing learned Counsel and after considering the fact that the cheque amount is Rs.2,40,000/-, in my view, payment of compensation amount of Rs.4 lakh to the respondent No.1 by the petitioner Nos. 1 and 2 would serve the ends of justice. Hence, I modify the order of Magistrate and the sessions court as under:-

(a) The petitioner Nos. 1 and 2 are convicted of the offences punishable under section 138 read with 141 of Negotiable Instruments Act. The petitioner No.2 shall undergo S.I. till rising of the court. He shall appear before the trial court for undergoing said sentence within a period of one month from today.

(b) Petitioner Nos. 1 and 2 shall pay compensation of Rs.4 lakhs to the respondent No.1. The amount of Rs.1,20,000/- already

deposited with the sessions court be appropriated towards compensation amount. Rest of the amount of Rs.2,80,000/- shall also be deposited in the lower court within eight weeks from today. In default, S.I. for 15 days. If the amount as directed is not paid, the sessions could shall take necessary steps immediately.

© Petition and revision application disposed of accordingly.

(M.L.TAHILIYANI, J.)

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1] In view of the disposal of the Revision Application No.358 of 2014, this application does not survive and dismissed as such.

(M.L.TAHILIYANI, J)

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