

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO. 1096 OF 2014

Mangesh Mahadeo Khetle .. Applicant

Versus

Bhikaji Tukaram Mungekar & Anr. .. Respondents

Mr. R. S. Saluj, Advocate for the applicant

Mr. Bhikaji Tukaram Mungkar - Complainant/Respondent No. 1
present in person.

No APP for the respondent-State

CORAM:-V. L. ACHLIYA, J.
DATED :- 16/04/2015

P.C.

Admit.

2 By consent of the parties, taken up forthwith for final
hearing.

3 This application is filed u/s 482 of Cr. P. C.,
challenging the order dated 7/10/2014 passed in Misc. Application
No. 3052 of 2014 in Criminal Appeal No. 736 of 2014, whereby the
application moved by the applicant seeking extension of time to
comply with order dated 26/08/2014, is rejected by the Sessions

Court. In nutshell it is the contention of the learned counsel for the applicant that in an appeal preferred against the judgment and order passed by learned Metropolitan Magistrate, 70th Court, Mazgaon, Mumbai, whereby the learned Magistrate convicted the applicant u/s 138 of Negotiable Instruments Act, the applicant has preferred appeal before Sessions Court, Mumbai. The learned Addl. Sessions Judge passed order suspending the sentence awarded by the trial court subject to deposit of compensation to the extent of 20% awarded by the learned Magistrate within stipulated period. The applicant could not deposit the amount within time due to compelling reasons. He, therefore, moved an application seeking extension of time to deposit the amount. However, vide order dated 7/10/2014, the learned Addl. Sessions Judge has rejected the application by observing that no case is made out for extending the period for deposit of amount. Being aggrieved by order dated 7/10/2014 the applicant has filed this application.

4 Having regard to the submissions advanced and the grounds raised in this application, I am inclined to allow the application. Respondent No. 1 / complainant, who is present in

person, states that he has no objection to allow the application and extend the time as prayed for. In order to meet the ends of justice, I pass the following order;

ORDER

- (i) Order dated 7/10/2014 passed by the learned Addl. Sessions Judge, Mumbai in Misc. Application No. 3052 of 2014 filed in Criminal Appeal No. 736 of 2014, is set aside.
- (ii) Time to comply with the order dated 26/8/2014 passed by appellate Court, to deposit the amount to the extent of 20% of compensation as awarded by the learned Magistrate, is extended till 30/4/2015.
- (iii) The applicant is directed to appear before the Court of learned Metropolitan Magistrate, 70th Court, Mazgaon, Mumbai, and comply with the earlier order passed in the matter.
- (iv) On compliance of order the further order

as to admission of appeal and suspension of sentence, if required to be passed, by Sessions Court, Mumbai, then same be passed in accordance with law.

(v) The application be marked as disposed off in above terms with no order as to cost.

(V. L. ACHLIYA, J.)

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