

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 261 OF 2016
IN
CRIMINAL REVISION APPLICATION NO. 15 OF 2016

DASHRATH S/O BAPURAO MOHITE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for the Applicant : Mr. Abhishek G. Kulkarni
APP for respondent No. 1 : Mr. G. O Wattamwar
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CORAM : V. K. JADHAV, J.

DATED : 13th JANUARY, 2016

P.C. :-

1. The applicant/accused is convicted by learned Judicial Magistrate First Class, Court No. 6, Aurangabad for the offence punishable under Section 138 of Negotiable Instruments Act, 1881 and sentenced to suffer imprisonment for two months and to pay fine of Rs.45,000/- i/d to suffer further simple imprisonment for one month, with further directions that the complainant be paid an amount of Rs.40,000/- as a compensation, if fine amount is deposited. Learned Additional Sessions Judge-2, Aurangabad, by judgment and order dated 12.01.2016 in Criminal Appeal No. 191 of 2010, confirmed the said order. Being aggrieved by the same, the applicant/accused has preferred Criminal Revision Application No. 15 of 2016, in which, notices are issued to the respondents, including the complainant.

2. Learned counsel for the applicant submits that during trial, the applicant/accused was on bail and he was also on bail during pendency of appeal. Learned counsel has pointed out paragraph No. 18 of the judgment passed by learned Additional Sessions Judge-2, Aurangabad in Criminal Appeal No. 191 of 2010, wherein it is observed that after passing of the judgment by the trial court, the applicant/accused deposited entire amount of Rs.45,000/-. In view of this, following order is passed :

ORDER

- I. Criminal Application is hereby allowed.
- II. The substantive part of the sentence dated 17.08.2010 passed by the Judicial Magistrate First Class, Court No. 6, Aurangabad in SCC No. 4213 of 2004 and confirmed by the Additional Sessions Judge-2, Aurangabad by judgment and order dated 12.01.2016 in Criminal Appeal No. 191 of 2010, is hereby suspended.
- III. The applicant/accused Dashrath S/o Bapurao Mohite be released on bail on his furnishing P.R. bond of Rs.5,000/- with one surety in the like amount.
- IV. Registry to furnish authenticated copy of this order to the requesting party.

(V. K. JADHAV, J.)

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