

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 59 OF 2016

SANTOSH S/O VITTHALRAO PATIL DHUMAL
VERSUS
THE STATE OF MAHARASHTRA & ANR

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Advocate for Petitioner : Mr. Narendra D. Sonwane

APP for Respondent No.1: Mr. S.G. Karlekar

Advocate for Respondent No.2 : Mr. N.P. Ghanwat

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CORAM : V. K. JADHAV, J.
DATED : 1st AUGUST, 2016

PER COURT:-

1. Heard learned counsel for the respective parties.
2. Being aggrieved by the order dated 22.12.2015 passed by the Additional Sessions Judge, Aurangabad below Exh.4 in criminal appeal No. 217 of 2015, the original accused-appellant has preferred this writ petition.
3. Brief facts giving rise to the present writ petition are as follows:-
 - a) Respondent No.2 has filed Summary criminal case No. 257 of 2004 against the petitioner under Section 138 of Negotiable Instruments Act. The petitioner appeared in the said case and he was tried by the Magistrate. The learned

J.M.F.C. Sillod by order dated 25.11.2015 in summary criminal case No. 257 of 2004 convicted the present petitioner for the offence punishable under Section 138 of N.I. Act and sentenced him to suffer S.I. for three months and to pay compensation of Rs.3,00,000/- (Rupees Three lacs) as provided under section 357 (3) of Cr.P.C.

b) Being aggrieved by the same, the petitioner-original accused has preferred criminal appeal No. 217 of 2015 before the Additional Sessions Judge, Aurangabad, who by order dated 22.12.2015 suspended the sentence imposed by the learned Magistrate on payment of Rs.2,90,225/- on furnishing P.R. and S.B. of Rs.15,000/-.

c) So far as the directions to pay an amount of Rs.2,90,225/- as a part of compensation is concerned, the petitioner-original accused has preferred this writ petition.

4. Pursuant to the order passed by this court dated 18.01.2016, the petitioner has deposited an amount of Rs.1,50,000/- (Rupees One lac fifty thousand) before the Sessions Court at Aurangabad. Since the petitioner, who is appellant before the Sessions Court, has shown his bonafide by depositing the amount of Rs.1,50,000/- before

the Sessions Court, the following order would meet the ends of justice:-

O R D E R

- I. Criminal writ petition is hereby partly allowed.
- II. The order dated 22.12.2015 passed by the Additional Sessions Judge, Aurangabad below Exh.4 in Criminal appeal No.217 of 2015 is hereby modified to the extent of payment of compensation in the following manner;-

“The substantive part of sentence, including the direction to pay compensation of Rs.3,00,000/- as directed by the J.M.F.C. Sillod by order dated 25.11.2015 in S.C.C. No. 257 of 2004 is suspended on payment of Rs.1,50,000/-.

- III. Rest of the order dated 22.12.2015 passed by the Additional Sessions Judge, Aurangabad below Exh.4 in criminal appeal No. 217 of 2015 stands confirmed.
- IV. Writ petition is accordingly disposed of.

(V. K. JADHAV, J.)

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