

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 3880 OF 2016
IN
CRIMINAL REVISION NO.163 OF 2016
WITH
CRIMINAL REVISION NO.163 OF 2016

WITH
CRIMINAL APPLICATION NO. 3899 OF 2016
IN
CRIMINAL REVISION NO.165 OF 2016
WITH
CRIMINAL REVISION NO.165 OF 2016

WITH
CRIMINAL APPLICATION NO.3906 OF 2016
IN
CRIMINAL REVISION NO.166 OF 2016
WITH
CRIMINAL REVISION NO.166 OF 2016

WITH
CRIMINAL APPLICATION NO.3907 OF 2016
IN
CRIMINAL REVISION NO.167 OF 2016
WITH
CRIMINAL REVISION NO.167 OF 2016

WITH
CRIMINAL APPLICATION NO.3908 OF 2016
IN
CRIMINAL REVISION NO.168 OF 2016
WITH
CRIMINAL REVISION NO.168 OF 2016

WITH
CRIMINAL APPLICATION NO.3909 OF 2016
IN
CRIMINAL REVISION NO.169 OF 2016
WITH

CRIMINAL REVISION NO.169 OF 2016

WITH
CRIMINAL APPLICATION NO.3910 OF 2016
IN
CRIMINAL REVISION NO.170 OF 2016
WITH
CRIMINAL REVISION NO.170 OF 2016

WITH
CRIMINAL APPLICATION NO.3911 OF 2016
IN
CRIMINAL REVISION NO.171 OF 2016
WITH
CRIMINAL REVISION NO.171 OF 2016

WITH
CRIMINAL APPLICATION NO.3912 OF 2016
IN
CRIMINAL REVISION NO.172 OF 2016
WITH
CRIMINAL REVISION NO.172 OF 2016

SHRI RADHYESHAM GANESHLAL DHOOT.
VERSUS
SHRI VISHNUKUMAR BANSILAL KALANTRI AND ANOTHER.

...
Advocate for Applicant : Shri Kulkarni Mukul S..
APP for Respondent 2 : Shri S.G.Karlekar.
Advocate for Respondent 1 : Shri C.R.Deshpande.

...

CORAM: SMT. S.S.JADHAV, J.

DATE :- 14th July, 2016

Per Court:

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Heard.

2 Rule.

3 These are the criminal applications seeking suspension of substantive sentences. The Applicant herein is convicted in STC Nos.1574/2011, 1468/2010, 646/2012, 592/2011, 1091/2010, 1116/2011, 153/2012, 1174/2012 and 154/2011 by the learned Judicial Magistrate First Class, Court No.4, Latur vide the judgments and orders dated 09.05.2014 for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 and is sentenced to suffer Simple Imprisonment for six months and compensation of Rs.6 lac each in the above STC cases.

4 Being aggrieved by the said judgments and orders, the Applicant herein had filed Criminal Appeal Nos.92/2014, 88/2014, 93/2014, 90/2014, 91/2014, 94/2014, 96/2014, 89/2014 and 95/2014 before the Sessions Court at Latur.

5 It is a matter of record that at the time of admission of the appeals, the learned Sessions Judge had not directed the Applicant to deposit any amount which was contemplated by way of compensation and what was considered is only the quantum of substantive sentence.

6 By the judgments and orders dated 11.07.2016, the appeals were dismissed and the Applicant was directed to surrender his bail bonds.

7 Needless to say, that order in respect of depositing of compensation was confirmed in appeals. Hence, the present revision applications.

8 The learned counsel appearing for the Respondent No.1/ original Complainant, submits that in fact it was erroneous on the part of the learned Sessions Judge to admit the appeals without directing the Applicant to deposit at least 50% of the amount of compensation. Hence, it has caused prejudice to the Complainant as well as miscarriage of justice as the Complainant would never be able to recover the amount.

9 The Applicant was taken into custody on 11.07.2016 in all the above cases and continues to remain in custody.

10 The learned counsel appearing for the Applicant, upon instructions, submits that no prejudice would be caused to the Complainant in the eventuality the Applicant is willing to demonstrate his

bonafides by depositing at least 30% of the compensation awarded by the learned Judicial Magistrate First Class. The learned counsel, upon instructions, further submits that the total amount of compensation in all these cases would come to Rs.55 lac and 50% amount would be Rs.27 lac approximately.

11 However, considering the view taken by the Honourable Apex Court in the case of *Dilip S. Dahanukar vs. Kotak Mahindra Co. Ltd.*, (2007) 6 SCC 528, this Court is inclined to direct the Applicant to deposit the amount of Rs.20 lac in this Court in two equal installments i.e. Rs.10 lac within FOUR WEEKS from today and further Rs.10 lac within FOUR WEEKS THEREAFTER.

12 In these circumstances that on accepting the undertaking given by the learned counsel for the Applicant, upon instructions, this Court is inclined to suspend the substantive sentence and enlarge the Applicant on bail in all the cases.

13 Hence, the following order:-

- (a) The substantive sentence, imposed upon the Applicant vide judgments and orders dated 09.05.2014 by the learned Judicial Magistrate First Class, Latur which was confirmed by

the learned Sessions Judge vide judgments and orders dated 11.07.2016, is hereby suspended.

- (b) The Applicant shall be enlarged on bail, by furnishing the same bails with fresh bonds.
- (c) The Applicant shall abide by the undertaking given to this Court.
- (d) Stand over to 08th September, 2016.

14 Parties to act on an authenticated copy of this order.

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(SMT. S.S.JADHAV, J.)