

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL REVISION APPLICATION NO. 65 OF 2015

MRS. VANDANA VASANT HARMALKAR
THROUGH HER FRIEND, MR. VASANT
KRISHNA HARMALKAR.,

... Petitioner

Versus

THE TIVIM SIRSAIM M.P. SERVICE
CO-OPERATIVE SOCIETY LTD., REP BY
ITS MANAGER, RAMRAO G. TAR AND
ANR.

... Respondent

Adv. Shivan Desai for the Petitioner.

Ms. M. Pinto, Addl. Public Prosecutor for Respondent no.2.

Coram:- S. B. SHUKRE, J.

Date:- 25th January, 2016

P.C.:

Heard learned counsel for the petitioner and learned Additional
Public Prosecutor for the State/Respondent no.2.

2. Respondent no.1 is absent and this is inspite of the fact that
respondent no.1 has been duly served and also after this Court passed
an order on 13/10/2015, directing respondent no.1 to remain present
in person before this Court.

3. Obviously direction dated 13/10/2015 was passed by this Court
with a view to verify whether the loan account has been closed, as
there is a letter issued by respondent no.1, copy of which is at page
23, showing that the petitioner's loan account, which showed

outstanding balance as Rs.30,000/- as on 3/6/2008 has been fully closed w.e.f January 2014. Since respondent no.1 has chosen to remain absent before this Court and not extend assistance in the matter, it has to be now presumed that the documents i.e., letter dated 9/1/2014 issued on behalf of the bank of respondent no.1 with all its contents is correct. Similar presumption of correctness or genuineness would have to be drawn in respect of the other letter dated 7/7/2015 issued by respondent no.1 showing that the loan of Rs.30,000/- granted by respondent no.1 to the petitioner in the account has been duly "closed on 9/1/2014".

4. These contentions which have come on record subsequent to the dismissal of the appeal of the petitioner by the learned Assistant Sessions Judge-1, Panaji on 30/4/2013, show that revision application now needs to be partly allowed by modifying the sentence of imprisonment imposed upon the petitioner.

5. Learned Addl. Public Prosecutor for the State, in view of the subsequent developments has urged that appropriate order in the matter be passed. She makes a submission that the petitioner was arrested on 6/7/2015 and released on 10/7/2015. It is clear that the petitioner has undergone detention for the period from 6/7/2015 to 10/7/2015.

6. In the circumstances, I am inclined to allow this criminal

application partly by modifying the impugned judgments and orders to the effect that now instead of undergoing sentence for simple imprisonment for a period of one month, the sentence of simple imprisonment shall be confined to the period of detention already undergone by the petitioner, i.e. between the period from 6/7/2015 and 10/7/2015 since the petitioner has already undergone the detention, the sentence hereby imposed in modification of the impugned judgments and orders shall be treated as duly served. Further, after the closer of the loan account, the sentence relating to payment of compensation shall also be treated as duly served. The revision application is disposed of in these terms.

S. B. SHUKRE, J.

ap/-