

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3 OF 2016
IN
CRIMINAL WRIT PETITION NO.4124 OF 2014

Ashish Jhunjhunwala		Applicant
V/s.		
State of Maharashtra & Anr.		Respondents

ALONG WITH

CRIMINAL APPLICATION NO.4 OF 2016
IN
CRIMINAL WRIT PETITION NO.4125 OF 2014

Vikas Banwarilal Ladia		Applicant
V/s.		
State of Maharashtra & Anr.		Respondents

Mr. Ashish S. Chavan for the Applicants.

Smt. V.R. Bhonsale, A.P.P., for Respondent
No.1-State.

Mr. Surel S. Shah for Respondent No.2.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 1ST MARCH 2016.

P.C. :

1. These Criminal Applications have been preferred by the Petitioners, who are the Original Accused, requesting the Court to reduce the amount, which this Court has directed them to deposit by its order dated 26th October 2015. It is submitted that, due to certain difficulties, the Petitioners are unable to deposit the said amount and as a result, even after the time prescribed for depositing the amount is being elapsed, the Petitioners are not in a position to deposit the remaining amount. So far,

they have deposited additional amount of Rs.1,50,000/- and hence the amount which this Court has directed them to deposit be reduced to any reasonable sum.

2. This prayer of the Applicants is strongly resisted by Respondent No.2-Complainant.

3. The perusal of the order of this Court dated 26th October 2015 reveals that the learned Additional Sessions Judge, while entertaining the Appeal preferred by the present Applicants, challenging their conviction under Section 138 of Negotiable Instruments Act, directed the Applicants to deposit 25% of the fine amount of Rs.70,00,000/-, to be paid in five equal installments. On the plea of the Applicants that the amount ordered to be deposited is unreasonable and the learned Appellate Court has not conducted any inquiry as regards the paying capacity of the Applicants and on the submissions advanced by learned counsel for the Applicants, under instructions, that Applicants shall deposit the amount of Rs.20,00,000/- jointly and severally in three equal installments and the last installment would be paid within a period of three months, the order passed by the learned Sessions Judge was modified.

4. Now again to exercise the discretion and modify the said order is not possible, when the Applicants have not made any sincere efforts to deposit at-least substantial amount within this period of three months, except for the meager amount of Rs.1,50,000/-. In view thereof, these Criminal Applications cannot be entertained or considered; hence stand dismissed.

[DR. SHALINI PHANSALKAR-JOSHI, J.]