

FARAD CONTINUATION SHEET No.IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.668 OF 2016

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. C.F. Bhojwani for the Applicant.

Smt. Anamika Malhotra, APP. for the State.

CORAM : A.S.GADKARI, J.**DATE : 26th July, 2016**

P.C.

By the present application under Section 482 of the Code of Criminal Procedure the applicant has questioned the correctness of the order dated 20.8.2015 passed in Misc. Application No.2065 of 2015 in Criminal Appeal No.664 of 2015 by the learned Judge, City Civil and Sessions Court, Greater Bombay. By the impugned order the learned Judge of the Appellate Court while suspending the substantive sentence imposed upon the applicant has directed to deposit 25% of the amount of compensation within a period of two months from the date of passing of the said order by the Appellate Court.

2) The applicant is convicted under Section 138 of the Negotiable Instruments Act and sentenced to suffer simple imprisonment for two weeks and to pay a fine Rs.5.00 lacs as compensation to the complainant by the learned Metropolitan Magistrate, 44th Court, Andheri, Mumbai in CC No.829/SS/2011 by its Judgment and order dated 10.7.2015. The applicant has preferred Criminal Appeal No.664 of 2015 in Sessions Court at Mumbai. In the said appeal Misc. Application

No.2065/2015 was filed for suspension of substantive sentence. The Appellate Court by the impugned order dated 20.8.2015, while suspending the substantive sentence has directed the applicant to deposit 25% of amount of compensation in the said Court. The said order is impugned herein.

3) The learned counsel for the applicant submitted that the directions to deposit 25% of amount of compensation is an onerous condition and the said direction be modified and the applicant be directed to deposit a "reasonable amount". It is needless to mention that the term "reasonable" is a relative term. Upon being asked by this Court to the learned counsel for the applicant, according to him what would be the reasonable amount to be deposited in the Appellate Court during the pendency of the appeal, he hesitantly submitted that 10% amount perhaps may be the appropriate and reasonable amount. The applicant is held guilty for the offence under Section 138 of the Negotiable Instruments Act and the Trial Court has sentenced him as stated earlier. The Appellate Court while exercising its judicial discretion has directed the applicant to deposit 25% of compensation amount. According to me the said direction to deposit 25% of the compensation amount is a reasonable amount and requires no interference by this Court at all. I find that there is no error either on facts or in law is committed by the Appellate Court while passing the impugned order dated 20.8.2015. I find no merits in the application and the application is accordingly dismissed.

(A.S. GADKARI, J.)