

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.2193 OF 2016

M/s. Ganesh Agencies & ors. .Petitioners

Vs.

Standard Chartered Bank & anr. .Respondents

Mr.V.V.Ugale i/b. Mr.H.K.Sayyed, Advocate, for
the Petitioners

Mr.A.Kamkhedkar, APP, for the Respondent No.2 –
State

CORAM : REVATI MOHITE DERE, J.

DATE : 07.10.2016

P.C.

. Heard learned counsel for the
Petitioners.

2. At the outset, learned counsel for the
Petitioners seeks leave to amend to implead
Mr.V.Yadagiri as Petitioner No.4. Leave granted.
Amendment to be carried out forthwith.

3. By this Petition, the Petitioners have
impugned the order dated 05.04.2016 passed by

the learned Addl. Sessions Judge, Greater Mumbai (C.R.No.7) in M.A.No.888 of 2016 in Appeal No.312 of 2016.

4. The Petitioners have been convicted for the offence punishable under Section 138 of the Negotiable Instruments Act and have been sentenced to suffer S.I. till rising of the Court. The Petitioner Nos.2 to 5 have also been directed to pay Rs.52,00,000/- as compensation and in default to suffer S.I. for six months each. Against the said Judgment and Order of conviction and sentence, the Petitioners have filed an Appeal, being Cri.Appeal No.312 of 2016 in the Sessions Court. In the said Appeal, the Petitioners have filed M.A.No.888 of 2016 seeking suspension of their sentence. The learned Sessions Judge vide order dated 05.04.2016 was pleased to suspend the sentence imposed by the learned Magistrate subject to the condition that the Petitioners deposit 20% of

Rs.52,00,000/- within two months from today i.e. from 05.04.2016.

5. Learned counsel for the Petitioners states that the two months time granted by the learned Judge was extremely short and that the Petitioners were unable to arrange the said amount. Learned counsel, therefore, requests that the time to deposit the said amount i.e. 20% of Rs.52,00,000/- which is Rs.10,40,000/- be extended by two months from today. Learned counsel for the Petitioners has tendered an Affidavit-cum-undertaking of the Petitioner No.2 stating therein, that the Petitioner No.2 will deposit the said amount of Rs.10,40,000/- on or before 01.12.2016 in this Court. He submits on instructions that the Petitioners will not seek further extension of time.

6. Perused the papers including the Affidavit-cum-undertaking tendered by the

Petitioner No.2. The said Affidavit-cum-undertaking is taken on record and marked as "X" for identification. Taking into consideration the Affidavit-cum-undertaking filed by the Petitioner No.2, that he is ready and willing to deposit the sum of Rs.10,40,000/- on or before 01.12.2016, time is extended upto 01.12.2016. The said amount of Rs.10,40,000/- shall be deposited by the Petitioner No.2 in the Registry of the Appellate Court i.e. Sessions Court where the Appeal is pending. A copy of the Affidavit-cum-undertaking be placed on record of the learned Sessions Judge before whom the Appeal is pending. It is made clear, that no further extension will be granted. Accordingly, the Petitioners' sentence is suspended, pending Appeal, subject to the condition that the Petitioner No.2 deposits 20% of Rs.52,00,000/- i.e. Rs.10,40,000/- in the Registry of the Appellate Court.

7. Accordingly, the Petition is disposed of on the aforesaid terms.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)