

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

**CRIMINAL APPLICATION NO.401 OF 2016
IN
CRIMINAL REVISION APPLICATION NO.373 OF 2016
WITH
CRIMINAL APPLICATION NO.402 OF 2016
IN
CRIMINAL REVISION APPLICATION NO.374 OF 2016
WITH
CRIMINAL APPLICATION NO.403 OF 2016
IN
CRIMINAL REVISION APPLICATION NO.375 OF 2016
WITH
CRIMINAL APPLICATION NO.404 OF 2016
IN
CRIMINAL REVISION APPLICATION NO.376 OF 2016**

M/S.AFX+Q ENGINEERS AND ANR.)...APPLICANTS

V/s.

M/S.NIKITA UDYOG AND ANR.)...RESPONDENTS

Mr.Prospers D'Souza a/w. Ms.Archana Gaikwad, Advocate for the Applicants.

Mr.S.R.Murarka, Advocate for Respondent No.1.

Mrs.M.R.Tidke, APP for the Respondent - State.

CORAM : P N. DESHMUKH, J.

DATE : 31st AUGUST 2016.

P.C. :

1 Applicants who are convicted by the learned trial court for the offences punishable under Section 138 of Negotiable Instruments Act, and are sentenced to suffer simple imprisonment for 3 months and to pay compensation of Rs.4,50,000/-, Rs.5,00,000/-, Rs.10,00,000/- and Rs.6,00,000/- respectively (Criminal Application Nos.401 of 2016, 402 of 2016, 403 of 2016 and 404 of 2016) within three months, in default, to suffer simple imprisonment for 1 month, has prayed for suspension of sentence and for grant of bail. Learned counsel for applicants has submitted that he has got good case on merits and applicants have placed on record chart of total amount of compensation directed to be paid by applicants in above numbered cases by the learned trial court and further giving details of 15% of amount deposited before the trial court.

2 The appeals preferred by the applicants before the learned Sessions court appear to be dismissed thereby confirming orders of the trial court. During the course of hearing and with reference to amount shown in the chart, it is noted that out of total compensation of Rs.25,50,000/-, amount of Rs.3,82,500/- is deposited by applicants

before the trial court which comes to 15% of the total amount of compensation.

3 Considering the case of applicants of their false implication and with regard to fake invoice amounts, which is stated to be to the extent of Rs.11,29,500/-, said aspect can be duly considered at the time of final hearing of the revision applications. Learned counsel for the respondent no.1 – original complainant has objected for making reference of such fake invoices. However, at this stage the objection does not appear to be without any force, as that being the case of applicants, which as aforesaid, can only be considered at the time of final hearing of revisions on merit, applications need to be allowed by directing applicants to make payment of Rs.2,55,000/- after deducting Rs.3,82,500/-, which is balance amount of 25% of Rs.25,50,000/-. Hence following order is passed :

- i) Applicants shall be released on bail on executing fresh bond in the sum of Rs.20,000/- each. However, sureties already furnished are allowed to be continued.

- ii) On being released on bail, applicants are directed to pay amount of Rs.2,55,000/- before 30th September 2016 before the trial court. Further direction for payment to be considered on the adjourned date.
- iii) While on bail, applicants shall mark presence with Shahupuri Police Station, Kolhapur, on 15th day of each month, pending revision applications.
- iv) Applicants shall provide proof of his residence with the said police station and in the event of change of residence, shall intimate the same to the concerned police station.
- v) Parties to act on a copy of this order duly authenticated by the Sheristedar of this court.

(P. N. DESHMUKH, J.)