

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.475 OF 2016

IN

CRIMINAL REVISION APPLICATION NO.418 OF 2015

GEETA MARINE SERVICES PVT. LTD. & ANR.)...APPLICANTS

V/s.

THE STATE OF MAHARASHTRA & ORS.)...RESPONDENTS

Mr.Saeed Akhtar a/w. Mr.Rehan Ansari, Advocate for the Applicants.

Mr.Dinesh Maingi, Advocate for Respondent No.2 – Original
Complainant – present in person.

Mrs.V.S.Mhaispurkar, APP for the Respondent - State.

CORAM : P N. DESHMUKH, J.

DATE : 23rd AUGUST 2016.

PC. :

1 Applicants having been convicted for the offence punishable under Section 138 of Negotiable Instruments Act had filed appeal before the learned Sessions court which came to be dismissed on 27th August 2015. Aggrieved by said dismissal, applicants preferred revision and during pendency of same, have prayed for suspension of sentence and for release on bail.

2 Admittedly and from the record it is found that applicant no.2 on 26th September 2015 undertook to deposit Rs.30 Lakh before the Sessions court, Greater Mumbai, in Court Room No.17, in three equal installments of Rs.10 Lakh each, within the period of three months from the date of order i.e. 26th October 2015, and further undertook to furnish copy of receipts within seven days from the deposit of amount before the Sessions court.

3 In view of undertaking as aforesaid, and having considering the nature of offence, the substantive sentence imposed came to be stayed by this court pending revision, subject to the condition that applicant no.2 shall furnish bail bond of Rs.15,000/- with one surety in like amount and shall deposit Rs.30 Lakh in three equal installments of Rs.10 Lakh each, within the period of three months from the date of order, as undertook by the applicant no.2. Accordingly, it appears that this application is already disposed off. However, it is found that applicant no.2 for one or other reason, could not comply with the order of depositing Rs.30 Lakh in three equal installments of Rs.10 Lakh each, within the period of three months, and has thus approached the Hon'ble Supreme Court of India, seeking

extension of time to deposit said amount which proceedings however came to be withdrawn with directions to applicants to approach the High court for the relief sought in that application.

4 Accordingly, applicants filed Criminal Application No.32 of 2016 before this court which came to be decided on 23rd March 2016, vide which, this court refused to interfere to reduce the amount of Rs.30 Lakh, mainly for the reason that amount of Rs.30 Lakh was agreed to be deposited by applicant no.2 himself and infact has undertook to deposit the same in three installments of Rs.10 Lakh each, and in that circumstance, though amount was not reduced, time to deposit was extended by six weeks from 23rd March 2016.

5 As applicant no.2 could not comply with the order before expiry of period of six weeks, he again approached the Hon'ble Supreme court by filing Special Leave Petition No.2810 of 2016 wherein by order dated 13th April 2016 time was extended till June 2016. It is further found that as applicant no.2 even failed to deposit amount by the end of June 2016, has filed Criminal Application No.369 of 2016 before this court. However, withdrew the same with leave to adopt appropriate proceedings before the Hon'ble Supreme Court of

India, and had thereafter preferred Special Leave Petition No.12167 of 2016. During the pendency of above proceedings before the Hon'ble Supreme Court, applicant no.2 came to be taken into custody on execution of non-bailable warrant. Applicant no.2, as such, filed present application for grant of bail by suspending sentence imposed upon him and has also prayed for extension of time to deposit amount till September 2016 or such other time as this court deems fit or proper and / or subject to grant of extension of time by the Hon'ble Supreme Court. Since, pending this application, Special Leave Petition 12167 of 2016 was pending before the Hon'ble Supreme Court, no orders were passed by this court on 18th August 2016, though applicant no.2 was willing to deposit Rs.30 Lakh in one stroke, and had sought permission to that effect.

6 Today, learned counsel for applicants has tendered at the bar copy of correspondence received by applicant no.2 from his advocate on record before the Hon'ble Supreme Court, making a statement that Special Leave Petition (Cri) No.12167 of 2016 is dismissed as withdrawn. In the background of above stated facts, and in view of order of this court dated 26th October 2015 finding applicant no.2 to be entitled for suspension of his sentence and for his release on

bail, in view of statement made by him to deposit Rs.30 Lakh, and having considering the fact that applicant no.2 is willing to deposit said amount of Rs.30 Lakh in lumpsum even today, application is liable to be allowed, as learned trial court appears to have imposed fine upon applicant to the extent of Rs.95,30,000/-, out of which amount of Rs.19,06,000/- is deposited before the learned Sessions Court, and thus, on depositing Rs.30 Lakh today, near about 50% of the fine amount will be deposited by applicant no.2. In the circumstances, application is liable to be allowed as per order below :

- i) Conviction and sentence imposed upon applicants by the learned Metropolitan Magistrate, 44th Court, Andheri, Mumbai, stands suspended.
- ii) Applicant no.2 shall be released on bail on his executing P.R.Bond in the sum of Rs.15,000/- with one surety in like amount.
- iii) Applicant no.2 since is in jail, shall furnish his P.R.Bond within one week on his availing bail, on furnishing surety.
- iv) Needless to say that above order shall come into effect only on applicant no.2 depositing Rs.30 Lakh in the Sessions court by Demand draft today itself. Registrar of said court to accept the same and issue receipt. Copy of receipt be supplied to respondent forthwith.

- v) Parties to act upon a copy of order duly authenticated by the Sheristedar of this court.

(P. N. DESHMUKH, J.)