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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.3354 OF 2015

M/s Millennium Engineering Services

..Petitioner

Vs.

M/s Suvarna Electricals & Anr.

..Respondents

Mr. Himanshu Kode for Petitioner.

Mr. Deepak Thakare, APP for Respondent No.2-State.

CORAM: A.S. GADKARI, J.

DATE : 16th April 2016.

P.C.

1 By the present petition, the petitioner has challenged the order dated 11.8.2015 passed by the Additional Sessions Judge, Pune in Criminal Appeal No.370 of 2015.

2 The petitioner is the original accused in SCC No.17109 of 2012. By the Judgment and Order dated 9.7.2015 passed by the Judicial Magistrate First Class, Pune, the petitioner has been convicted under Section 138 of the Negotiable Instruments Act and directed to pay compensation of Rs.20,20,530/- to the complainant within one month from the date of the said order, in default of the same, to undergo simple imprisonment for three months. Being aggrieved

by the said Judgment and Order, the petitioner has preferred Criminal Appeal No.370 of 2015 in the Court of Additional Sessions Judge, Pune. The petitioner has also filed an application below Exhibit-5 in the said appeal for suspension of order of compensation. The learned Additional Sessions Judge by a detailed order dated 11.8.2015 suspended the operation of sentence passed by the learned Judicial Magistrate First Class, Pune subject to condition that the petitioner shall deposit Rs.20,20,530/- in the said Court within 15 days from the date of the said order. The said order is impugned herein.

3 The present petition is filed, challenging the interlocutory order dated 11.8.2015 of suspension of sentence pending the appeal. The record discloses that since 24.8.2015 the petitioner herein is enjoying the interim relief and has avoided to comply with the said order. The record further discloses that the Trial Court while convicting the petitioner has not imposed any substantive sentence of imprisonment upon the petitioner who has been convicted under Section 138 of the Negotiable Instruments Act. The Appellate Court therefore to look into the said aspect while hearing the appeal of the petitioner. The appeal filed by the petitioner is pending before the Court of competent jurisdiction and the Appellate Court has passed the impugned order thereby directed to deposit compensation amount in the Registry of the Appellate Court.

4 I have perused the entire record annexed to the present petition and find that the Appellate Court has not committed any error either in law or on facts while passing the impugned order dated 11.8.2015. It is to be noted here that the petitioner has been convicted by the Trial Court after recording the evidence and after hearing him at length. The Appellate Court while granting stay to the operation of the sentence has passed impugned order dated 11.8.2015 which according to me is just, right and proper. There is no need to interfere with the said order dated 11.8.2015. There are no merits in the petition and the same is accordingly dismissed in limine.

5 At this stage, the learned Counsel for the petitioner submitted that the petitioner may be granted four weeks time to deposit the aforesaid amount of compensation in the Registry of the Appellate Court. As stated earlier, the petitioner is enjoying interim relief since 24.8.2015 therefore the said request cannot be accepted. However, in the interest of justice the petitioner is granted two weeks time to deposit the said amount of compensation in the Registry of the Appellate Court.

(A.S. GADKARI,J.)