

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 3040 OF 2016**

Sambhaji S. Mundhe

...Petitioner

Versus

Ravindra V. Pol & Anr.

...Respondents

Mr. P. N. Wagh for the Petitioner

Mr. Avinash Kamkhedkar, A.P.P for the Respondent No.2-State

CORAM : REVATI MOHITE DERE, J.
MONDAY, 3rd OCTOBER, 2016

P.C. :

1. Heard learned Counsel for the petitioner.
2. By this petition, the petitioner has impugned the order dated 25th July, 2016 passed by the learned Additional Sessions Judge, City Civil and Sessions Court, Greater Mumbai, below Misc. Application No. 1001 of 2016 in Criminal Revision No. 524 of 2016, only to the extent that his sentence has been suspended, subject to payment of compensation of Rs. 3 lakhs.

3. Learned Counsel for the petitioner states that the cheque amount is Rs. 2,95,000/-. He submits that pursuant to the judgment and order of conviction under Section 138 of the Negotiable Instruments Act, the petitioner has been sentenced to suffer simple imprisonment for three months and to pay compensation of Rs. 4 lakhs. Learned Counsel for the petitioner further submits that the learned Judge has directed the petitioner to deposit a sum of Rs. 3 lakhs and that the same is excessive. He submits that it is difficult for the petitioner to deposit such a huge amount. He has relied on the judgment of the Apex Court in the case of ***Dilip S. Dahanukar vs. Kotak Mahindra Co. Ltd.***¹

3. Perused the papers. Learned Counsel for the petitioner, on the instructions of the petitioner, states that the petitioner is ready to deposit 25% of the compensation amount, which is Rs. 1,00,000/- within three weeks from today. The said statement is accepted.

4. In view of the aforesaid, the petition is allowed. The order dated 25th July, 2016 is modified to the extent that the substantive sentence

¹ (2007) 6 SCC 528

stands suspended, subject to the petitioner depositing a sum of Rs. 1,00,000/- in the Appellate Court within three weeks from today. On depositing the said amount, the learned Judge shall proceed to hear the appeal on its own merits.

5. Petition is disposed of accordingly.
6. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.