

Anand

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

WRIT PETITION NO.3431 OF 2016

Jaywant Masnu Sutar .Petitioner

Vs.

Yamanappa Kallappa Bagal & anr. .Respondents

Mr.A.S.Patil, Advocate, for the Applicant
Mr.V.V.Gangurde, APP, for the Respondent No.2 –
State

CORAM : REVATI MOHITE DERE, J.

DATE : 30.11.2016

P.C.

. By this Petition, the Petitioner has impugned the order dated 22.08.2016 passed by the learned Addl. Sessions Judge, Gadhinglaj, District – Kolhapur (below Exh.12).

2. Learned counsel for the Petitioner submits that the learned Sessions Judge could not have modified the order dated 23.05.2016 passed by his predecessor. He submits that the order dated 22.08.2016, passed subsequently, is

without jurisdiction and is passed, as if the learned Judge was sitting in Appeal against the order dated 23.05.2016 passed by his predecessor. He also submits that the said Application, below which the impugned order was passed, was preferred by the Respondent after two months.

3. Perused the Petition including the orders dated 23.05.2016 & 22.08.2016.

4. It appears that the Petitioner vide Judgment and Order dated 20.04.2016, was convicted under Section 138 of the Negotiable Instruments Act and was sentenced to suffer S.I. for three months and was also directed to pay compensation of Rs.16,00,000/- to the Respondent – Complainant within three months from the date of order. The Petitioner challenged the said Judgment and Order of conviction and sentence by filing an Appeal before the Sessions Judge,

being Cri. Appeal No.12 of 2016. The learned Addl. Sessions Judge, Gadhinglaj, District – Kolhapur vide order dated 23.05.2016 was pleased to suspend the sentence until further orders and the Petitioner was directed to furnish bail of Rs.15,000/- with surety of the like amount. It appears that thereafter, i.e. after two months an Application, being Exh.12 was preferred by the Respondent – Complainant praying therein, that the Petitioner be directed to deposit a sum of Rs.12,00,000/- pending the Appeal. Accordingly, the learned Judge directed the Petitioner to deposit a sum of Rs.2,00,000/-, within one month out of the compensation of Rs.16,00,000/-. The said order cannot be said to be without jurisdiction. It is pertinent to note that the sentence was suspended vide order dated 23.05.2016, until further orders and therefore, there is no infirmity in the order dated 22.08.2016, by which the learned Judge directed the Petitioner to deposit a sum of

Rs.2,00,000/-.

5. The Petition being devoid of merits and
is dismissed.

(REVATI MOHITE DERE, J.)