

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 472 OF 2015

IN

CRIMINAL REVISION APPLICATION NO. 175 OF 2015

Ms. Surbhi Sanjiv Sharma

.....Applicant

IN THE MATTER OF :

Darshan Bharat Churiwala and anr.

.....Applicants
(Orig. Accused)

V/s.

Sanjiv Ramesh Sharma and anr.

.....Respondents
(Resp no.1-original
complainant)

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Mr. Subhash Jha i/by. Law Global, Advocate for the applicant.

Mr. Yashpal Thakur i/by. Ms. Neeta Parikh, Advocate for the respondent no.1.

Mr. A.S. Shitole, APP for State, respondent no.2.

Coram :- Smt. R.P. SondurBaldota, J.

10th February, 2016.

P.C. :-

1). The respondent to the Revision Application files this application for liberty to withdraw the amount of Rs.50,00,000/- deposited by the revision applicants in the trial Court on 15th October, 2015. The revision applicants challenge the concurrent findings of the Courts below of their conviction for the offence punishable under Section 138 Negotiable Instruments Act. They have been sentenced to suffer imprisonment of 3 months and pay compensation of Rs.4,98,00,000/- to the original complainant. By the order dated 22nd

April, 2015 this Court directed the revision applicants to deposit a sum of Rs.1 crore in this Court within a period of 4 weeks from today as a condition for their release on bail. After seeking some extensions, the revision applicants have deposited the amount by two equal installments, the second installment being deposited on 15th October, 2015. The amount of the first installment is already permitted to be withdrawn by the applicant.

2). The application for withdrawal is opposed by the revision applicants contending that, they have a good chance to succeed in the revision application and that there is no case made out for withdrawal of the amount. Mr. Thakur, the learned Advocate appearing for respondent no.1, submits that, the reasons stated for withdrawal in the application is same as in the earlier application i.e. the settlement of marriage of the applicant and settlement of her brother in business.

3). Considering the concurrent findings of the Courts below, the limited scope of the revision application and the earlier order for withdrawal, in my opinion, the application deserves to be allowed and the applicant permitted to withdraw the amount of Rs.50,00,000/- deposited by the revision applicants in the trial Court on 15th October, 2015.

4). Hence, the application is allowed. The amount of Rs.50,00,000/- deposited by the revision applicants be paid to the applicant on her filing an Undertaking to return the amount to the revision applicants with interest at the rate charged by a nationalised Bank from the date of receipt of the amount till the date of payment.

5). Mr. Thakur, requests for stay of the operation of the order. The request is rejected.

(SMT. R.P. SONDURBALDOTA, J)