

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1694 of 2017**

- Smt. Rupal Shah W/o Anish Shah Aged About 38 Years R/o Karsan Tower Karsan Estates , Beside Patidar Bhawan Fafadih Post Office Raipur Police Station Devendra Nagar Raipur Tahsil & District Raipur Chhattisgarh.

---- Petitioner**Versus**

1. Ashween Thokne S/o Gopal Rao Thokne Aged About 40 Years R/o Village Sirsida Post Office & Police Station Kurud District Dhamtari Chhattisgarh. (Complainant / Respondent No. 1)
2. State Of Chhattisgarh Through The District Magistrate Dhamtari , District Dhamtari Chhattisgarh.

---- Respondents

For Petitioner	:	Shri Shivendu Pandya, Advocate
For Respondent-State	:	Shri Ramakant Pandey, PL for the State

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****29/11/2017**

1. Heard.
2. Primarily this petition is against the order dated 21.09.2017 arises in an application for suspension of sentence, which was passed in a case under Section 138 of the Negotiable Instrument Act, 1881, wherein it was directed that the petitioner/accused shall deposit an amount of Rs.3 Lakhs and in absence of payment of compensation, she has to undergo the jail sentence of three months.
3. Learned counsel for the petitioner submits that the appeal was filed challenging such order of compensation and the appellate Court has

directed to pay the entire amount of compensation and it was observed that in case the entire amount of 3 Lakhs will be deposited then only the suspension order will come into play.

4. Perused the order dated 21.09.2017, the order was passed for suspension of the original order dated 23.08.2017, wherein it was directed that the compensation amount of 3 Lakhs shall be paid and in absence of payment of fine/compensation, the accused shall undergo three months imprisonment. The said order when was challenged before the appellate Court, the appellate Court suspend the sentence, however, it was directed that after payment of fine only the suspension order shall come into operation.
5. Considering the fact that the appeal has already been admitted for hearing by the Sessions Court and the sentence was initially up till the rising of the Court and for payment of comp of three lakhs and it was directed that in the absence of the payment of compensation the accused will undergo three months imprisonment. The appeal having been admitted if the entire compensation is paid then in such case virtually the suspension of sentence would have been an affect to maintain the original order of conviction. Taking such fact it is directed that on deposition of amount of Rs.1 Lakh the observation made by the order dated 21.09.2017 the order would be effective on payment of entire compensation amount would remain stayed up till the final judgment of the appeal before the Sessions Court, Dhamtari. With such observation, the CRMP stands disposed of.

Sd/-

Goutam Bhaduri
Judge

Ashu