

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 900 OF 2017

Baba Provision Stores, Through its **Petitioner**
Pro., Satyanarayan S/o Bhanvarlal
Vyas, Aged 61 Years, Occupation
Business, Resident of Moti Nagar,
Latur, Taluka and District Latur

V E R S U S

Laxmi Bahuuddeshiya Sahakari **Respondent**
Patsanstha Ltd. Latur, through its
Secretary, Arun S/o. Pandurang More,
Aged Major, Occupation Service,
Resident of Shop No.32 and 33, Mahatma
Phule Bhaji Market, Kavva Road, Latur,
Taluka and District Latur

Mr. T.M. Venjane, Advocate for the Petitioner
Mr. N.D. Kendre, Advocate for the Respondent

CORAM : T.V. NALWADE, J.

DATE : 13th DECEMBER, 2017

ORAL JUDGMENT :

This petition is filed to challenge the order
passed by the learned Additional Sessions Judge, Latur
in Criminal Appeal No. 54 of 2013.

2. Both the sides are heard.

3. The submissions made and the record show that the present petitioner was accused in private complaint filed under Section 138 of the Negotiable Instruments Act. The learned Judicial Magistrate, First Class had convicted the petitioner and he was directed to pay compensation of Rs.1,00,000/-. This order of Judicial Magistrate was challenged by filing Criminal Appeal No. 54 of 2013. While suspending the sentence, the Sessions Court had imposed condition of depositing Rs.25,000/- and, due to this, an amount of Rs.25,000/- was deposited in the Sessions Court. Then the Sessions Court allowed the Appeal and the present petitioner came to be acquitted. In the order of acquittal itself, the learned Sessions Judge had directed to return the amount deposited by the present petitioner after the period of appeal is over, which could have been challenged by filing proceeding in the High Court. After that period, present appellant had filed application for getting back the amount, but the application is rejected by Sessions Court by observing

that Criminal Revision is filed by the complainant and is pending in this Court.

4. There is no provision in the Code of Criminal Procedure which enables the Court to direct to deposit any amount in advance in any Court. Thus, the Court had no power to retain the amount deposited by the accused when he is acquitted. Even this Court could not have directed the accused to deposit that amount. The Sessions court has considered the pendency of revision for rejecting the application. Such order cannot sustain in law.

5. In the result, the writ petition is allowed. The order made by learned Additional Sessions Judge below Exh.25 in Criminal Appeal No. 54 of 2013 is set aside. The amount be returned forthwith to the petitioner-accused.

(**T.V. NALAWADE, J.**)

