

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL MISC. APPLICATION NO. 33 OF 2017
IN
CRIMINAL REVISION APPLICATION NO. 57 OF 2016

SHRI. RAJKUMAR GIRDHARLAL
KHATWANI.,

... Applicant

Versus

SHRI. PANKAJ DESAI.,

... Respondent

Shri Vibhav Rajiv Amonkar, Advocate for the Applicant.

Coram:- C. V. BHADANG, J.

Date:- 1st March, 2017

P.C:

This is an application for grant of extension of time by a period of eight weeks to deposit the amount, as directed by the order dated 25.10.2016.

2. By an order dated 25.10.2016 in Criminal Miscellaneous Application No.213/2016, the sentence awarded, in default of payment of compensation, was suspended, on the following conditions:

(i) The applicant shall be released on bail on execution of P.R. Bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(ii) The applicant shall furnish his correct address along with proof before the learned Sessions Judge.

- (iii) The applicant shall deposit Rs.8 Lakhs before this Court within four weeks from today.
- (iv) In the event of default in depositing the said compensation, the order is liable to be recalled.
- (v) Bail bonds to be furnished before the learned Sessions Judge.
- (vi) Parties to act on the authenticated copy of the order.

3. Out of the amount of Rs.11 Lakhs of compensation, the applicant has deposited Rs.3 Lakhs before the Sessions Judge. The applicant was to deposit the remaining amount of Rs.8 Lakhs before this Court within four weeks i.e. by 24.11.2016. The amount is unpaid till today.

4. The applicant has sought extension from time to time. The first extension was granted by order dated 22.11.2016 in Criminal Miscellaneous Application No.221/2016, whereby time was extended by four weeks. By an order dated 21.12.2016 in Criminal Miscellaneous Application No.241/2016, the period was extended by another four weeks as a last chance. It was specifically stipulated in the said order that no further time shall be granted. In spite of this, the payment/deposit is not made. The present application is filed on 18.01.2017, seeking an extension of eight weeks.

5. On 13.02.2017, a statement was made by the learned Counsel for the applicant, on instructions, that the parties have reached a settlement and they will produce the consent terms. Nothing materialised inspite of grant of further time on 20.02.2017 and 23.02.2017. Today, the applicant is present in person. The learned Counsel for the applicant informs that the consent terms did not materialise, as the applicant is unable to make the payment.

6. In such circumstances, there is no other alternative than to recall the order of suspension of sentence. In fact, sufficient time has already been granted to the applicant to deposit the amount. A perusal of order dated 25.10.2016 would show that this Court noticing that normally this Court would be slow in suspending the sentence, had granted indulgence as the applicant had shown willingness to deposit the remaining amount of compensation. Inspite of that, the applicant has not met with the condition.

7. In such circumstances, the application is dismissed. The order dated 25.10.2016 is hereby recalled. The learned Counsel for the applicant, on instructions, states that the applicant shall surrender before the Magistrate on 06.03.2017. The statement is accepted. In the event of failure of the applicant to surrender by 06.03.2017, the learned Magistrate shall cause the applicant to be arrested for serving the sentence, which is awarded in default of

payment of compensation. The learned Magistrate shall send the compliance report within two weeks from today. The application is disposed of.

C. V. BHADANG, J.

EV