

rrpillai

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO. 29 OF 2016
WITH
CRIMINAL REVISION APPLICATION NO. 30 OF 2016
WITH
CRIMINAL REVISION APPLICATION NO. 31 OF 2016**

Akhatar Akbar Sayyad ... Applicant
vs.
The State of Maharashtra and Anr. ... Respondents

Mr. Satish R. Mishra for the Applicant.
Mr. Onkar Gupte for Respondent no.2.
Mr. Vinod Chate, APP for the State.

**CORAM : A. K. MENON, J.
DATE : 28th JUNE, 2017**

P.C.:

1. In these three revision applications, learned Counsel for the applicant acknowledges the fact that the applicants have defaulted in paying of a total sum of Rs.60 lakhs payable as per their undertaking filed in Court dated 18th July, 2016. Only a sum of Rs.10 lakhs has been paid. The said amount of Rs. 10 lakhs was paid directly to respondent no.2 – original complainant.

2. On various occasions this matter has been adjourned. On 4th October, 2016 the applicant's Counsel stated that the accused had suffered a cardiac problem and was hospitalised at Lucknow. Thereafter it was adjourned to 14th October, 2016 when further time was granted as a last chance. The order

clarifies that on the next date i.e. 25th November, 2016 the applicant would make full payment of the balance amount of Rs. 50 lakhs. Yet the amount remained unpaid. On 8th December, 2016 Counsel for the applicant sought time and the matter was adjourned to 14th December 2016 with a direction to the applicant to remain present on the next date.

3. On 14th December, 2016 the applicant was not present. Counsel for the applicant stated he was unable to be present due to “unavoidable circumstances” and assured the Court that the applicant would remain present on 20th December, 2016 and make payment of Rs. 10 lakhs and matter was adjourned to 20th December, 2016. On 20th December, 2016 it appears that the matter was not listed. However, circulation was granted for 22nd December, 2016 at their request but the applicant and his advocate were absent. In these circumstances, the matter was adjourned to 5th January, 2017. On 5th January, 2017 the applicant was directed to remain present on the next date. Thereafter the matter was listed on 1st February, 2017. Thereafter it appears that the matter has not been listed and has come up today.

3. Today learned Counsel for the applicant once again seeks time and states that his clients will deposit balance amount of Rs. 50 lakhs on or before 5th July, 2017. Perusal of the order dated 1st February, 2016 indicates that substantive sentence was suspended in view of the pendency of the revision application and on the basis that the applicant is depositing additional amount of Rs. 10 lakhs in

Sessions Court, Thane. This statement has also not been honoured. Thus in fact only Rs. 10 lakhs has been paid. In interests of justice, the applicant was enlarged on bail and furnish fresh bonds and also report to JMFC, Vashi once in 6 months. The Counsel for the applicant states that his client has been attending JMFC, Vashi as directed but he has been unable to pay the amount due to some financial stringency.

4. In the meanwhile the applicant appears to have filed separate Writ petition in this Court being Writ Petition 1170 of 2016 wherein he sought appointment of independent agency to investigate the execution of the consent terms dated 1st April, 2015 which was executed when he was in custody. He also sought a direction to the police authorities to register an FIR against respondent no.4 who was the original complainant for having obtained his signature on the consent terms. This Court vide order dated 14th June, 2017 while rejecting the Writ Petition has observed that the petitioner has not complied with the order of the trial court directing payment of Rs. 49 lakhs and that while in jail he had agreed to pay Rs. 60 lakhs on the basis of the same consent terms, he calls into question. The applicant was released on bail during the pendency of the appeal and the Court has rejected on the contention that the consent terms were not binding on him and that the amount that was required to deposited had not been deposited.

5. Incidentally, it appears that the applicant is not even residing at the address given in the cause title and the order further records that the applicants

whereabouts are not known. Learned Counsel on a query from the court states that the revision applicant is residing at the very same address provided in the cause title.

6. Today in view of the statement made across the bar and as a last chance to pay Rs. 50 lakhs, I pass the following order.

(i) The applicant shall pay a sum of Rs. 50 lakhs to respondent no.2 on or before 5th July, 2017 by pay order of a Nationalised Bank.

(ii) If payment is not so made on or before 5th July, 2017 the interim order of protection granted, including, suspension of sentence shall stand vacated forthwith and these applications shall stand dismissed without further orders of the Court.

5. Stand over to **6th July, 2017** for compliance.

(A. K. MENON, J.)