

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION
CONTEMPT PETITION NO.39 OF 2016**

Smt. Sameera Suresh Kadam Petitioner

Vs.

Mr. Anil Chandrakant Narkar Respondent

Ms. Rachana R. Chavan, Advocate for the Petitioner.

Mr. Rajesh Kanojia, Advocate for the Respondent.

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

Date : 7th March, 2017

P.C.

1 This contempt petition seeks action against the respondent for breach of the order dtd. 23rd February, 2013 passed by the Sessions Court, Dindoshi in Revision application No.90 of 2012 directing the respondent to pay a sum of Rs.1,00,000/- to the petitioner alongwith interest @ 21% per annum from 30th May, 2013.

2 The brief facts of the case are that the respondent had issued three cheques to the petitioner in the sum of Rs.2,50,000/- in total. The cheques when presented for payment were dishonoured. After service of the statutory notice, the petitioner filed complaint under Section 138

Negotiable Instruments Act in the Court of Metropolitan Magistrate, 43rd Court, Borivli being CC No.4300555/SS of 2011. The trial Court issued process against the respondent on 12th August, 2012. The respondent challenged the process in the Court of Sessions at Dindoshi vide Revision Application No.90 of 2012. In that proceedings, the dispute came to be settled through the Mediator and the parties filed consent terms, under which the respondent was to pay Rs.2,50,000/- to the petitioner in three instalments of Rs.75,000/-, Rs.75,000/- and Rs.1,00,000/- on/or before 30th May, 2013. As per the order of the Sessions Court, the respondent paid the sum of Rs.1,50,000/- to the petitioner but failed to pay the balance amount of Rs.1,00,000/-. Therefore, the present petition came to be filed by the petitioner.

3 This court issued notice to the respondent on 3rd February, 2016. The notice could not be served as the respondent was not found at his address. Therefore, by the order dtd. 28th April, 2016, it was directed that the notice be served upon the respondent through Meghwadi Police Station, Jogeshwari. It's only thereafter that the respondent appeared before the court on 21st July, 2016. In the meanwhile, the respondent made a statement before the Court that he would deposit the amount in the Court and issued cheque in the sum of Rs.1,00,000/- to the Registry of this Court. That cheque when presented for payment, was dishonoured. The

respondent thereafter on three consecutive dates remained absent. Then bailable warrant came to be issued against him on 25th January, 2017. Being so compelled, he appeared before the court on 15th February, 2017 and agreed to deposit the amount of Rs.1,00,000/- by way of demand draft and pay a sum of Rs.74,000/- by demand draft to the petitioner towards the interest awarded under the consent order.

4 In the above facts of the case, as regards the act of contempt by the respondent is concerned, the same is clearly complete. However, Mr. Kanojia submits that in view of the payment made by the respondent to the petitioner, this court should take a lenient view of the matter and discharge the notice of contempt. Ms. Chavan on the other hand requests that at least some costs be imposed upon the respondent to be paid to the Maharashtra Legal Services Authority. Taking an overall view of the matter, in my opinion, a direction to the respondent to deposit a sum of Rs.5,000/- with the Maharashtra Legal Services Authority by way of costs of the present petition would be an appropriate matter. The costs to be paid within a period of two weeks from today. In view of disposal of the Contempt Petition, the warrant of arrest issued against respondent on 25th January, 2017 is cancelled.

(Smt. R.P. SondurBaldota, J.)