

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO.493 OF 2016
IN
CRIMINAL WRIT PETITION NO.3452 OF 2016**

Mr. Razzak Hussain Shaikh ...Applicant

Versus

Meheirtaka Saeed Mogul & Anr. ...Respondents

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Mr. M.S. Shamim i/b. M/s. Shamim and Co. for the
Applicant.

Mr. R.R. Shaikh for the Respondent No.1.

Mr. P.H. Gaikwad, APP for the Respondent No.2-State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED : 13th OCTOBER, 2017.

P.C.:-

The Applicant herein is the original complainant in Case No.5311/SS/2010 for the offence punishable under Section 138 of the Negotiable Instruments Act. The Respondent No.1 herein, who was an accused in the said criminal case has been held guilty of the said offence and sentenced to undergo simple imprisonment of three months and to pay compensation of Rs.4,00,000/- to be paid to the complainant within a period of one month from the date of judgment. The revision application filed by the Respondent No.1 herein has been dismissed by the Sessions Judge, Greater Mumbai by judgment dated

31st July, 2014. The Respondent herein has challenged the said judgment in the Writ Petition No.3452 of 2016.

2. It is not in dispute that the Respondent herein had deposited Rs.1,00,000/- before the Sessions Court, Greater Mumbai and that the said amount has already been withdrawn by the Applicant. During the pendency of the writ petition the Respondent has deposited Rs.3,00,000/-.

3. By this application, the Applicant has sought leave to withdraw the said amount. Considering the fact that the amount was paid as compensation and was payable to the Applicant/complainant, in my considered view the Applicant is entitled to receive the said amount.

4. The learned counsel for the Applicant, under instructions from the Applicant, who is present in the Court, submits that in the event, the Applicant does not succeed and the Writ Petition is allowed and the judgment of the Trial Court is quashed and set aside, he will refund Rs.3,00,000/- to the Respondent No.1. Statement is accepted.

5. In the light of the above statement, the application is allowed. Amount of Rs.3,00,000/- deposited before this Court is ordered to be paid to the Applicant herein.

6. The criminal application stands disposed of.

(ANUJA PRABHUDESSAI, J.)