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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT NAGPUR**

CRIMINAL REVISION NO.138 OF 2015

Yogiraj S/o Narayan Nikhare,
Aged about : 35 years,
Occupation : Business,
R/o Masurkar Chowk,
Itwari Road, Nagpur

..APPLICANT

VERSUS

Haribhau S/o Manoharrao Paunikar,
Aged about : 59 years,
Occupation :
R/o Bhaiyyalal Wadi, Sitanagar,
Nagpur, Dist. Nagpur

..RESPONDENT

Mr N.M. Kolhe, Advocate for applicant;
Respondent in person

CORAM : N.W. SAMBRE, J.

DATE : 22nd March, 2017

ORAL ORDER

At the request of the respondent, who appears in person, in the cause title of the revision, the name of his father be corrected as "Manoharrao", instead of "Mahadeorao".

2. Heard learned Counsel appearing on behalf of the applicant and the respondent in person.

3. The applicant – accused was convicted by 37th Judicial Magistrate First Class & Special Court for 138 N.I. Act, Nagpur, for an offence punishable under Section 138 of the Negotiable Instruments Act, by

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judgment and order dated 1st April, 2014, passed in Summary Criminal Case No.2384 of 2012, whereby he was sentenced to suffer imprisonment till rising of the Court and was directed to pay compensation of Rs.20,000/- to the respondent herein, which was subject-matter of challenge in Criminal Appeal before the learned Sessions Judge. Nagpur. As the appeal was time barred, an application being Criminal Application No.1322 of 2014 for condonation of delay came to be moved. However, as the said application was not persuaded by the applicant-accused, same came to be dismissed for want of prosecution, vide order dated 21st August, 2015. Thus, the present revision.

4. The applicant-accused, so as to show his *bona fides*, has deposited amount of Rs.20,000/- before this Court.

5. The respondent, who appears in person, submits that the Court may pass an appropriate order in the matter.

6. Since an assurance is given by the learned Counsel appearing on behalf of the applicant that the applicant herein will be diligent in pursuing the matter and shall not seek adjournments or shall not remain absent before the learned Sessions Judge, the order impugned passed by the learned Sessions Judge, dismissing the application for condonation of delay on 21st August, 2015, is set aside, on condition that the respondent is permitted to withdraw the amount of Rs.20,000/- deposited before this Court, who shall furnish an undertaking that in case the present applicant –

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accused succeeds in the appeal, he shall re-deposit the said amount in the Sessions Court within a period of four weeks from the date of such decision. In view thereof, the Criminal Application No.1322 of 2014, for condonation of delay filed by the applicant stands restored on the file of the learned Sessions Judge, who shall decide the same, on its merits and in accordance with law.

7. With above observations, revision stands partly allowed in above terms.

8. Parties hereto agree that they shall appear before the learned Sessions Judge on 7th April, 2017.

(N.W. SAMBRE, J.)

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