

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL REVISION APPLICATION NO. 10 OF 2018

DIVYA DAYANAND BHAGAT., ... Applicant

Versus

**THE VPK URBAN CO-OPERATIVE CREDIT
SOCIETY LTD., THR. ITS RECOVERY
OFFICER, BABANI ANANT GAUDE.,** ... Respondent

Adv. S. Shet for the Applicant.
Adv. S.P. Munj for Respondent.

Coram:- C. V. BHADANG, J.

Date:- 10th October 2018

P.C.:

The applicant has been convicted for the offence punishable under section 138 of the Negotiable Instruments Act and has been sentenced to undergo simple imprisonment till rising of the Court and to pay a compensation of Rs.5,50,000/- to the respondent no.1/ complainant and in default of payment of the compensation, to undergo further simple imprisonment for a period of two months.

2. The subject cheque which got dishonored was in the sum of Rs.2,75,000/-. The learned Magistrate has granted compensation double the amount of the cheque which is permissible under the provisions of section 138 of the Act. The petitioner has deposited

a total amount of Rs.2,75,000/- before this court.

3. The only contention raised on behalf of the applicant is that the amount of cheque already having been deposited, this Court may consider modifying the sentence. It is submitted that the learned Magistrate was not justified in directing payment of compensation of Rs.5,20,000/-.

4. In the present case, the parties were granted time to explore the possibility of a settlement, which unfortunately has not materialized. The learned counsel for the respondent has submitted that as on 30/9/2018, an amount of Rs.28,23,242/96 is due and outstanding against the petitioner. It is thus submitted that it is not possible for the respondent no.1 to agree for payment of the amount of the cheque alone.

5. I have heard the learned counsel for the parties and perused record.

6. Section 138 of the N.I. Act permits a sentence of payment of compensation which can be double the amount of the cheque. In so far as the substantive sentence is concerned, the magistrate has been lenient in directing imprisonment only till rising of the Court. The judgment of conviction and sentence as rerecorded by the learned Magistrate has been confirmed by the learned

Sessions Judge in appeal. It is thus not possible to accept that there is any infirmity in directing payment of compensation of Rs.5,50,000/-. At least no case for interference is made out in exercise of the revisional jurisdiction of this court. In that view of the matter, the revision application is dismissed. The amount deposited before this Court along with interest, if any, shall be paid to the respondent no.1.

C. V. BHADANG, J.

ap/-