

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL MISC. APPLICATION NO. 123 OF 2018
IN
CRIMINAL REVISION APPLICATION NO. 27 OF 2018

ANITA ANIL NAIK, PRESENTLY IN
CUSTODY AT CENTRAL JAIL COLVALE., ... Applicant

Versus

SANJANA SAGAR NAIK., ... Respondent

Shri Vivek Angelo Rodrigues and Shri Vithal Naik, Advocates
for the Applicant.
Shri Salil Saudagar, Advocate for the Respondent.

Coram:- C. V. BHADANG, J.

Date:- 18th April 2018

P.C.

This is an application for suspension of sentence.

2. The applicant has been convicted for the offence punishable under Section 138 of the Negotiable Instruments Act and has been sentenced to suffer imprisonment for two years and to pay compensation twice the amount of the cheque. The cheque was in the sum of Rs.3,50,000/-. The said judgment of conviction and sentence, has been confirmed by the learned Sessions Judge in appeal.

3. The learned Counsel for the applicant has pointed out that the learned Magistrate has awarded the maximum sentence, without

setting out any reasons for such a stringent view. It is submitted that the conviction cannot be sustained on merits, in as much as, the case of the respondent is of advancing a friendly loan of Rs.3,50,000 to the applicant, without there being any record of the same. It is submitted that the respondent has admitted that she is not filing any Income Tax Return. It is submitted that advance of cash of such huge amount is not permissible under Section 269SS of the Income Tax Act.

4. I have heard the learned Counsel for the applicant and the learned Counsel for the respondent-complainant. On hearing the learned Counsel for the parties, the following order is passed:

O R D E R

(a) The substantive sentence of imprisonment is hereby suspended, pending disposal of the criminal revision application, on condition of the applicant furnishing a P.R. Bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(b) The applicant shall deposit 50% of the amount of the cheque, within three weeks from today. In the event, the amount is not deposited, the order of suspension is liable to be re-called.

(c) Bail Bonds to be furnished and the fine amount to be deposited, before the learned Sessions Judge.

(d) All concerned to act on the basis of an authenticated copy of the order.

5. The application is disposed of.

C. V. BHADANG, J.

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