

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL REVISION APPLICATION NO. 39 OF 2017

ROHAN KARAPURKAR, PRESENTLY IN
JUDICIAL CUSTODY AT COLVALE, THR.
RAHUL KARAPURKAR.,

... Petitioner

Versus

JERONE FIGORE AND ANR.,

... Respondents

Shri Prasad U. Dessai, Advocate for the petitioner.
Shri M. U. Kenkre, Advocate for the respondent no.1.

Coram:- C. V. BHADANG, J.

Date:- 7th March 2018

P.C.

The challenge in this Criminal Revision Application is to the order dated 27/06/2017, passed by the learned Sessions Judge, thereby dismissing the appeal filed by the petitioner, for non-prosecution and for non-compliance with the order dated 30/03/2017 below Exh.D-4. That appeal was filed by the petitioner challenging his conviction for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881.

2. It is trite that the Criminal Appeal has to be decided on merits and cannot be dismissed in default or for want of prosecution. In so far as the question of non-compliance with the order dated 30/03/2017 is concerned, it is pointed out by the learned Counsel for the petitioner that it was an order, directing the petitioner to furnish surety and to deposit certain amount.

Here again, non-compliance with the order, requiring the accused to furnish surety, cannot result into dismissal of the appeal. At the highest, it would enable the learned Sessions Judge to pass appropriate orders, recalling the order of suspension of sentence. The learned Counsel for the petitioner points out that in this case, the petitioner has undergone the entire sentence. In any event, it would be for the learned Sessions Judge to consider all these circumstances and then decide the appeal on merits.

3. In the result, the Criminal Revision Application is allowed. The impugned order dated 27/06/2017 is hereby set aside. Criminal Appeal No.23/2017 is restored to the file of the learned Sessions Judge at Margao for disposal according to law.

4. Parties to appear before the learned Sessions Judge on 19/03/2018 at 10.00 a.m.

C. V. BHADANG, J.

SMA