

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

**CRIMINAL APPLICATION NO.39 OF 2018
IN
CRI. REVISION APPLICATION (ST.) NO.6 OF 2016**

Prakash H. Menda .. Applicant

Vs.

Miss.Nayana Panchal & Anr. .. Respondents

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Mr.Rajeev N.Kumar, Advocate for the Applicant.

Mr.Jehangir M.Khajotia, Advocate for the Applicant in Revn.St.6 of 2016.

Mr.M.G. Patil, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATED : FEBRUARY 23, 2018.

P.C. :

This is an application preferred by the original complainant seeking cancellation of order dated 25th April, 2016, passed by this Court suspending the sentence. Revision Applicant is convicted for an offence punishable under Section 138 of the Negotiable Instruments Act, 1881, vide judgment and order dated 2nd March, 2012, and, was directed to suffer simple imprisonment for five months and to pay compensation of Rs.5,00,000/-. Appeal preferred by the appellant has been dismissed by the Sessions Court vide judgment and order dated 16th June, 2015. Applicant has preferred Criminal Revision Application Stamp No.6 of 2016.

The application for suspension of sentence was allowed vide order dated 25th April, 2016, subject to condition that the applicant shall deposit the additional amount of Rs.2,00,000/-, in the Registry of the trial Court within three weeks from the date of order.

2 Learned advocate for the applicant submits that the said order has not been complied. The applicant was convicted and directed to pay compensation of Rs.5,00,000/-. It is submitted that the cheque was issued in the year 2010. Although the sentence was suspended on 25th April, 2016, the condition was not complied. Learned advocate for the revision applicant submits that on account of financial constraints the amount has not been deposited. The applicant had not moved this Court seeking modification of the order dated 25th April, 2016, and did not comply the order for a long period of time i.e. for almost a period of two years. This Court while suspending the sentence has categorically stated that the substantive sentence imposed on the applicant is suspended during the pendency of the Revision Application, subject to condition that the applicant shall deposit an additional amount of Rs.2,00,000/-, in the Registry of the trial Court within three weeks from the date of order.

3 In view of the above, I pass the following order:

:: ORDER ::

- (i) The order dated 25th April, 2016, suspending the sentence and granting bail to the applicant stands cancelled. However, the applicant is at liberty to renew the prayer for bail in case the amount stipulated in the order dated 25th April, 2016, is deposited by the applicant;
- (ii) Criminal Application No.39 of 2018 stands disposed of;
- (iii) List the Revision Application Stamp No.6 of 2016 on Board on 12th March, 2018.

(PRAKASH D. NAIK, J.)