

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.93 OF 2014  
IN  
CRIMINAL REVISION APPLICATION NO.172 OF 2013  
WITH  
CRIMINAL APPLICATION NO.347 OF 2013

|                                      |             |
|--------------------------------------|-------------|
| Ravindra Ramchandra Patil            | Applicant   |
| versus                               |             |
| The State of Maharashtra and another | Respondents |

Mr.Manish Bohra i/by A.S.Khan & Associates for applicant.  
Mr.Sagar G. Talekar for respondent no.2.  
Mrs.Neeta S. Jain, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 12<sup>th</sup> January 2018

PC :

1. This is an application for withdrawal of the amount deposited by the revision applicant before this Court as well as before the Trial Court. The revision applicant has been convicted for offence under Section 138 of Negotiable Instruments Act. The said conviction was confirmed by the Sessions Court by dismissing the appeal filed by the accused.

2. During pendency of the revision application, the revision applicant has deposited Rs.2,80,500/- before this Court and Rs.93,500/- before the Metropolitan Magistrate, 30<sup>th</sup> Court, Kurla, Mumbai. The learned advocate for complainant submits that the

cheque was dishonoured in the year 2007 and there is a concurrent finding of conviction against the revision applicant-accused. It is, therefore, submitted that the applicant may be permitted to withdraw the said amount.

3. The revision application filed by the accused has been admitted by this Court and the same is pending for final hearing. The learned advocate for respondents opposed the application for withdrawal of the amount. It is submitted that the revision applicant has good case on merits and, therefore, the amount may not be allowed to be withdrawn by the complainant.

4. Considering the fact that the amount has been deposited in this Court as well as before the Trial Court towards compensation amount awarded by the Trial Court while convicting the applicant and the cheques were issued in the year 2007 which were dishonoured, the complainant maybe allowed to withdraw the said amount without prejudice to the rights and contentions of the revision applicant-accused.

5. Hence, I pass following order :

### **ORDER**

- (i) Criminal Application No.93 of 2014 is allowed;
- (ii) The applicant/original complainant is permitted to withdraw Rs.2,80,500/- deposited by the revision applicant in this Court as well as Rs.93,500/- deposited before the Metropolitan Magistrate, 30<sup>th</sup> Court, Kurla, Mumbai;

- (iii) The withdrawal is permitted without prejudice to the rights and contentions of both sides and the same is subject to the decision of this Court in the criminal revision application filed by revision applicant;
- (iv) The complainant is directed to file an undertaking on record stating that in the event the conviction is set aside by this Court, the complainant would bring back the said amounts in this Court. Such undertaking be filed within one week from today and filing of such undertaking is a condition precedent for disbursement of aforesaid amounts;
- (v) Criminal Application No.93 of 2014 is disposed of.

(PRAKASH D. NAIK, J.)

MST