

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.196 OF 2017
IN
CRIMINAL REVISION APPLICATION NO.572 OF 2016

Nagraj Shivlingappa Kore
versus
Yogesh Shivlingappa Kore and another

Applicant
Respondents

Mr.Ashok B. Tajane for applicant.
Mr.Ritesh Thobde for Applicant in Revn.Appln.No.572/2016.
Mr.M.G.Pati, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 17th January 2018

PC :

1. This is an application for withdrawal of the amount deposited by the revision applicant in this Court in pursuant to the order dated 18th October 2016. The revision applicant has been convicted for offence under Section 138 of Negotiable Instruments Act and was sentenced to suffer simple imprisonment for five years. He was also directed to pay compensation of Rs.1,03,200/-. The revision applicant thereafter filed an appeal challenging the order of conviction which has been dismissed.

2. Learned advocate for the applicant submits that Rs.60,000/- deposited by the revision applicant/accused may be allowed to be withdrawn by the complainant. It is submitted that the cheque was issued in the year 2004 which was dishonoured. The learned advocate for the revision applicant, however, opposes the prayers for

withdrawal of the amount. It is submitted that the applicant-accused has good case on merits and, therefore, the amount may not be allowed to be withdrawn by the complainant.

3. Considering the fact that there are two concurrent findings against the revision applicant, the amount of Rs.60,000/- deposited by the revision applicant, can be allowed to be withdrawn by the complainant. Hence, I pass following order :

ORDER

- (i) Criminal Application No.196 of 2017 is allowed;
- (ii) The applicant-complainant is permitted to withdraw Rs.60,000/- deposited by the original accused in this Court along with interest accrued, if any;
- (iii) The withdrawal of the amount is without prejudice to the rights and contentions of the accused and the withdrawal shall be subject to the decision in the revision application;
- (iv) Criminal Application No.196 of 2017 is disposed of.

4. List Criminal Revision Application No.572 of 2016 on 31st January 2018.

(PRAKASH D. NAIK, J.)

MST