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

**CRIMINAL APPLICATION NO. 231 OF 2016
IN
CRIMINAL REVISION APPLICATION NO. 188 OF 2016**

Hemant Krishna Waradkar

.....Applicant

V/s.

Yatin S. Prabhavalkar and another

.....Respondents

Mr. Fauzan Shaikh i/b Hitesh Shah for the applicant.

Mr. R. M. Raghuwanshi i/b Mr. Manoj Mirchandani for respondent no. 1.

Mr. S. S. Pednekar APP for the State.

CORAM : NITIN W. SAMBRE, J.

DATE : APRIL 12, 2018.

P.C.

Mr. Shaikh appears on behalf of Mr. Hitesh Shah, the learned counsel for the accused, whose conviction for offence punishable under section 138 of the Negotiable Instruments Act, 1881 which is confirmed in appeal by the learned Sessions Judge. Revision against the conviction was already admitted by this Court on 04/04/2016.

2 On 17/01/2018, this Court observed that amount of Rs. 67.50 Lakh deposited by the accused towards part satisfaction of liability of compensation during the pendency of appeal were permitted to be withdrawn by the complainant upon executing bank guarantee of Rs. 20 Lakh.

3 On 04/04/2016, having noticed that compensation amount of Rs. 4.5 Crores is ordered, this Court while allowing the application for suspension of sentence and grant of bail, directed the applicant to deposit 1 Crore within 4 weeks.

4 Said order was not complied till date. Applicant has moved an application being 231 of 2016 for modification and this Court modified the order of depositing Rs. 1 Crore by directing the applicant-accused to deposit Rs. 50 Lakh which order, till date is not complied by the applicant.

5 The learned counsel for the applicant-accused submits no further instructions and leave the matter to this Court for passing appropriate orders.

6 In the wake of above, it is clarified that since the order dated 04/04/2016 of suspension of sentence and grant of bail was conditional, which was modified on 17/01/2018 is not complied till date. Hence, order of grant of bail and suspension of sentence, for non compliance of the conditions incorporated in both these orders, is hereby recalled.

7 The Trial Court shall forthwith issue conviction warrant against the accused and submit a report of execution within 6 weeks from today.

8 After hearing the learned counsel Shri. Raghuvanshi for the applicant-complainant on the issue of withdrawal of bank guarantee, in view of above observation, it is clarified that the bank guarantee permitted to be withdrawn by the order of this Court by virtue of order dated 17/01/2018 is absolute and no further inquiry or notice is contemplated in the said order.

[NITIN W. SAMBRE, J.]