

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

CRIMINAL APPLICATION NO. 367 OF 2017

Smt. Bhavana Mangesh Sontakke ... Applicant.

V/s.

The State of Maharashtra & Anr. ... Respondents.

Mr. Kuldeep S. Patil, Advocate for the Applicant.

Mr. Vidyadhar Gangurde, APP for the State.

CORAM : REVATI MOHITE DERE, J.

DATE : FEBRUARY 21, 2018

P.C. :

1 Heard learned counsel for the parties.

2 By this application, the applicant has impugned the order dated 12.06.2017 passed by the learned Sessions Judge, Alibag below Exh. 4 filed in Criminal Appeal No. 50 of 2017.

3 Learned counsel for the applicant submits that initially i.e. on 23.03.2017, the learned Judge directed the applicant to deposit Rs. 50,000/- and the application for suspension was kept for orders and thereafter, i.e. after three

months, the impugned order dated 12.06.2017 was passed, by which the applicant was directed to deposit Rs. 5 lakhs.

4 Perused the papers. The applicant has been convicted for the offence punishable under section 138 of the Negotiable Instruments Act vide judgment and order dated 22.04.2017 passed by the learned Judicial Magistrate, First Class, Khalapur and has been sentenced to suffer R.I. for 3 months and to pay compensation of Rs. 10 lakhs; in default to suffer further S.I. for one month. Being aggrieved by the said judgment and order of conviction and sentence, the applicant filed an appeal in the Sessions Court Raigad, Alibag, being Criminal Appeal No. 50 of 2017. It appears that on 23.03.2017, the learned Sessions Judge directed the applicant to deposit Rs. 50,000/- and the applicant's application (Exh.'O') for suspension of sentence was kept for orders on 12.06.2017. On 12.06.2017, the learned Sessions Judge directed the applicant to deposit 50% the compensation amount i.e. Rs. 5 lakhs and accordingly, suspended the Applicant's sentence on the applicant depositing Rs. 5 lakhs in the Court. In the facts, the order of deposit of 50% of the compensation is harsh and unreasonable, having regard to the judgment of the Apex Court in the case of **Dilip S. Dahanukar vs. Kotak Manhindra Company Ltd., & Anr.**, reported in 2007 All MR (cri.) 1775 (SC). Accordingly, the impugned order dated 12.06.2017 is modified to the extent,

that the applicant shall now deposit Rs.1,50,000/- (Rs. One lakh fifty thousand) within eight weeks from today with the Registry of the Sessions Court. It may be noted that the said amount of Rs. 1,50,000/- is in addition to Rs. 50,000/- which has already been deposited by the applicant in the Registry of the Trial Court.

5 Application is allowed in the aforesaid terms and it is accordingly disposed of.

 All parties to act on an authenticated copy of this order duly issued by the Registry of this court.

(REVATI MOHITE DERE, J.)

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