

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

**CRIMINAL APPLICATION NO. 359 OF 2018
IN
CRIMINAL REVISION APPLICATION NO. 243 OF 2018
WITH
CRIMINAL APPLICATION NO. 358 OF 2018
IN
CRIMINAL REVISION APPLICATION NO. 244 OF 2018**

Manoj S/o Papalal Sethi	... Applicant
Vs.	
Rekha Kurani and Anr.	... Respondents

...

Ms. Nazia Sheikh I/by Mr. Pradeep J. Thorat for the applicant.
Mr. Karan L. Jain, for the Respondent.
Mrs. N.S. Jain, APP for the Respondent-State.

...
CORAM : PRAKASH D. NAIK, J.
DATE : 8th AUGUST, 2018.

P.C.

1. Applications are preferred by the original complainant for withdrawal of amount deposited in this Court. The revision applicant in both these revision applications is convicted for an offence punishable under Section 138 of Negotiable Instruments Act. The appeals preferred by the revision applicant were dismissed and thereafter the said orders were challenged by way of aforesaid revision applications before this Court.

2. During pendency of these revision applications, the revision applicant has deposited an amount of Rs.2,40,000/- in connection with the proceedings which are subject matter in Criminal Revision Application No. 243 of 2018 and Rs.3,20,000/- in connection with the proceeding which are subject matter of Criminal Revision Application No. 244 of 2018.

3. Learned counsel for the applicant/complainant submits that the complainant be allowed to withdraw the said amount as the accused has been convicted and there are two concurrent findings of the lower Court. The counsel for the revision-applicant submitted that the respondent-complainant be directed to furnish an undertaking to this Court that, in case the revision application challenging the order of conviction is allowed and the conviction of the trial court is set aside, the complainant would deposit the aforesaid amount in this court alongwith accrued interest.

4. Considering the submissions advanced by both the parties, I pass the following order.

ORDER

(i) Criminal Application No. 358 of 2018 and Criminal Application No.359 of 2018 are allowed;

(ii) The applicant/complainant is allowed to withdraw the

amount of Rs.2,40,000/- in Criminal Revision Application No. 243 of 2018 and Rs.3,20,000/- in Criminal Revision Application No. 244 of 2018;

(iii) The applicant/complainant shall file an undertaking in this Court stating that the amount of Rs.2,40,000/- in Criminal Revision Application No. 243 of 2018 and Rs.3,20,000/- in Criminal Revision Application No. 244 of 2018 which are allowed to be withdrawn will be deposited in this Court with accrued interest, in the event the Criminal Revision Applications are allowed and the conviction of the trial Court is set aside;

(iv) The Undertaking shall be filed within a period of one week from today;

(v) Filing of the undertaking is condition precedent for the withdrawal of this amount;

(vi) Applications stand disposed off.

Digitally
signed by
Sachidanand
Kuttan Nair
Date:
2018.08.13
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(PRAKASH D. NAIK, J.)