

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

**CRIMINAL APPLICATION NO.409 OF 2017
IN
CRI. REVISION APPLICATION NO.433 OF 2017**

Joheb Firoz Inamdar

.. Applicant

Vs.

The State of Maharashtra & Anr.

.. Respondents

.....

Mr.Abdul K.Millawala, Advocate for the Applicant.

Mr.A.R. Kapadnis, APP for the Respondent – State.

Mr.T.D. Deshmukh, Advocate for Respondent No.2.

.....

CORAM : PRAKASH D. NAIK, J.

DATED : FEBRUARY 14, 2018.

P.C. :

The applicant is convicted for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, vide judgment and order dated 12th July, 2007, passed by J.M.F.C., Ghodegaon in S.T.C.No.104 of 2003. Applicant has been sentenced to suffer simple imprisonment for one year with fine of Rs.5,000/- and in default to suffer simple imprisonment for one month. The applicant, is, however, not directed to pay any compensation to the respondent – complainant. The reason for not granting compensation amount is stipulated in paragraph 11 of the judgment. Trial Court has observed that the complainant is

at liberty to file a recovery suit against original accused - principal debtor and that the applicant is guarantor to the principal debtor. Hence, the compensation of Rs.5,18,960/- is not liable to be awarded against the accused. The learned advocate for the applicant submits that in the aforesaid circumstances, the sentence of imprisonment may be suspended. Learned advocate for the respondent, however, submits that considering the fact that the applicant has been sentenced to suffer imprisonment for one month, he may be directed to deposit the amount, pending the Revision Application. In the light of the observations made by the trial Court, the sentence is required to be suspended without any direction to deposit.

2 Hence, I pass the following order:

:: ORDER ::

- (i) Pending Revision Application No.433 of 2017, the sentence of imprisonment awarded By the J.M.F.C., Ghodegaon dated 12th July, 2007, passed in S.T.C.104 of 2003, which is confirmed by the Sessions Court vide judgment and order dated 11th May, 2017, passed in Criminal Appeal

No.121 of 2014, is suspended and the applicant is directed to be released on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;

- (ii) Criminal Application No.409 of 2017, stands disposed of.

(PRAKASH D. NAIK, J.)