

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

**CRIMINAL APPLICATION NO. 492 OF 2018
IN
CRIMINAL REVISION APPLICATION NO.361 OF 2018
WITH
CRIMINAL REVISION APPLICATION NO. 369 OF 2018**

Mr.Jatin Sarvaiya

...Applicant

Versus

Ashok Mittal & Co. & Anr.

...Respondents

.....

Mr.Pranav Badheka i/b. Mr.Prashant B. Pawar for the Applicant.
Mr.A.R.Patil, APP for Respondent No.2-State.

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**CORAM: MRS.MRIDULA BHATKAR, J.
DATED: DECEMBER 05, 2018**

P.C.:

1. The Court notice is served on respondent No.1 on 12th October, 2018.
2. Though notice has been served, none appears for respondent No.1.
3. This criminal application is moved by the applicant/accused for suspension of sentence.
4. The applicant/accused is convicted for the offence punishable under section 138 of the Negotiable Instrument Act and is sentenced to suffer S.I. for three months and to pay fine of Rs. 7 Crores by the

judgment and order dated 8th June, 2018 passed by the learned Addl. Sessions Judge, Gr. Mumbai in Criminal Appeal No. 379 of 2007, wherein the judgment of conviction dated 21st June, 2007 passed by the learned Special Metropolitan Magistrate, Small Causes Court, Mumbai in Case No. 1697/S/2002 is modified. The said amount is to be paid to the complainant towards compensation.

5. The learned counsel for the applicant/accused prays that sentence be suspended, as he was not taken in custody even after confirmation of conviction dated 8th June, 2018. He further submits that the applicant/accused, who is original accused No.5, is in semi-conscious state of mind and he is in coma. He relies on the medical certificate dated 12th September, 2017 of one Dr.Kaushal S. Shah, who is a family physician, stating that the applicant/accused is physically disabled and bed ridden due to temporal bleed. He also relies on the medical certificate dated 30th July, 2008 given by Con. Neurosurgeon of Breach Candy Hospital wherein it is mentioned that he has no purposeful limb activity and does not obey commands.

6. In view of the physical condition of the applicant/accused, the sentence qua him is suspended, on a condition that 20% amount of the compensation is to be deposited in the trial Court. On query, the learned counsel for the applicant/accused submits that till today, the accused

persons i.e., original accused No.1-the company and original accused No.5 -the present applicant/accused have not deposited amount of the compensation.

7. In view of this, sentence is suspended, subject to deposit of 20% amount of the compensation in the trial Court by the applicant/accused within a period of three months from today.

8. The learned counsel for the applicant/accused submits that it is not possible for the applicant/accused to deposit any amount.

9. With this, Criminal Application is disposed of.

CRIMINAL REVISION APPLICATION NO. 369 OF 2018

10. Issue notice to the respondents, returnable on 30th January, 2019.

(MRIDULA BHATKAR, J.)