

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

**CRIMINAL APPLICATION NO. 607 OF 2017
IN
CRI. REVISION APPLICATION NO. 52 OF 2016**

Felix Anthnoy Francis ... Applicant.
(Org.Respondent No.1)

In the matter between :

Shri Wasim Shaikh Rafique ... Applicant.

V/s.

Mr. Felix Anthony Francis & Anr. ... Respondents.

Mr.Veerdhaval Kakade, Advocate for the Applicant / Org.
Respondent No.1.

Mr. Nilesh J. Mohite, Advocate I/by Mr. Satyavrat Joshi, for
the Revision Applicant.

CORAM : PRITHVIRAJ K. CHAVAN, J.

DATE : AUGUST 08, 2018

PC :

1 In Criminal Application No. 606 of 2017 in Cri.
Revision Application No. 50 of 2016, the following order was
passed, between the same parties, by this court, which reads
thus :

“P.C.

This is an application for withdrawal of an
amount of Rs.54,000/-, deposited by the revision
applicant before the trial Court. The applicant in this

application is the original complainant in the proceedings initiated under Section 138 of Negotiable Instrument Act, 1881. Trial Court had directed the revision applicant to deposit an amount of Rs.54,000/-, after convicting him for the aforesaid offence. After dismissal of his appeal, the revision applicant has preferred the Revision Application before this Court, which is pending. The sentence imposed upon the revision applicant has been suspended.

2 The learned advocate for the applicant/original complainant submits that the amount of Rs.54,000/-, deposited before the trial Court be allowed to be withdrawn by the applicant. It is submitted that the cheque, which was the subject matter in the proceedings is of the year 2003.

3 Mr. Joshi, learned counsel for respondent/revision applicant vehemently opposed the grant of such relief and submitted that the orders of the trial Court and the Sessions Court are under challenge in the Revision Application and, hence, the amount may not be returned to the complainant.

4 Taking into consideration the submissions advanced by the learned counsel for the applicant, the relief, as sought in the application can be granted.

5 Hence, I pass the following order :

ORDER

i. The applicant/original complainant is permitted to withdraw the amount of Rs.54,000/-, deposited by the respondent/revision applicant before the trial Court in connection with SCC No. 2117 of 2003 pending before the JMFC Contonment Court, Pune.

ii. Criminal Application 606 of 2017 stands disposed of.”

2 Though the learned counsel for the Applicant vehemently opposed the grant of reliefs in the present application, however, in view of the similar order passed as referred to above, the present application deserves to be allowed.

3 The Original Complainant is permitted to withdraw the amount of Rs.22,500/- deposited by the Applicant before the trial court in connection with SCC No.2118 of 2003, pending before the Ld. JMFC, Cantonment Court, Pune.

4 Criminal Application No. 607 of 2017 is allowed in the aforesaid terms and stands disposed of accordingly.

(PRITHVIRAJ K. CHAVAN, J.)

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