

Anand

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

CRIMINAL APPLICATION NO. 1267 OF 2017

Kuresh Taherbhai Rajkotwala .Applicant

Vs.

UCO Bank & anr. .Respondents

Mr. K. N. Bhatia, Advocate, for the Applicant

Mr. Rakesh Singh a/w Mr. A. Mishra i/b. Mr. M. V. Kini, Advocate, for
the Respondent No. 1

Mr. S. V. Walve, APP, for the Respondent No. 2 – State

CORAM : REVATI MOHITE DERE, J.

DATE : 11.01.2018

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant has impugned the Order dated 27.11.2017 passed by the learned Additional Sessions Judge, Greater Bombay below Exh. Nos. 3 & 4 in Cri. Appeal No. 310 of 2017, only to the extent, that it directs the Applicant to deposit 40% of the cheque in question within one month.

3. Learned counsel for the Applicant submitted that the compensation awarded by the trial Court is about Rs. 3,01,50,000/- with

further interest at 9% p. a.. He submitted that 40% of the cheque amount is around Rs. 1,20,00,000/- which is exorbitant and that the said direction is contrary to the Judgments of the Apex Court in the case of ***Dilip S. Dahanukar Vs. Kotak Mahindra Co. Ltd. And State***, reported in ***2007 Cri.L.J. 2417***. He submitted that the Applicant is ready to deposit 20% of the cheque amount within eight weeks from today, without prejudice to his rights. He further states that the Applicant will not seek any extension to deposit the said amount. Statement accepted.

4. Learned counsel for the Respondent No. 1 opposed the Application. He submitted that no interference is warranted in the impugned order. He further submitted that the hearing of the Appeal be expedited.

5. Perused the papers. The Applicant has been convicted for the offence punishable under Section 138 of the Negotiable Instruments Act, by the learned Metropolitan Magistrate, 44th Court, Andheri, Mumbai and has been sentenced to suffer S. I. for one year; and to deposit Rs. 3,01,50,000/- within one month, in default to undergo S. I. for three months. The Applicant was further directed to pay interest at 9% p. a., if he failed to deposit the said amount within one month.

6. Being aggrieved by the said order of conviction and sentence, the Applicant filed Cri. Appeal No. 310 of 2017 in the Court of learned Sessions Judge. The learned Sessions whilst enlarging the Applicant on bail directed the Applicant to deposit 40% of the cheque amount within one month from the order i. e. within one month from 27.11.2017.

7. In the facts, the direction to deposit 40% of the cheque amount is an onerous condition, considering that the cheque amount is about 3, 00,00,000/- odd. Having regard to the Judgment of the Apex Court and the statement made by the learned counsel for the Applicant on instructions of the Applicant, the Applicant to deposit 20% of the cheque amount within eight weeks from today.

8. Accordingly, the condition in Clause (b) of the impugned order dated 27.11.2017 stands modified to that extent i. e. the Applicant shall now deposit 20% of the cheque amount within eight weeks. The hearing of the Appeal is expedited. The learned Judge shall decide the said Appeal as expeditiously as possible and preferably within six months from the date of receipt of this order. Learned counsel for the Applicant on instructions of the Applicant assures to co-operate with the

expeditious disposal of the Appeal.

9. Accordingly, the Application is allowed & disposed of in the aforesaid terms.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)