

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APL) 577 OF 2014

(Jagdamba Krushi Kendra, Deulgaon Ghube...vs.. Vidarbha Cooperatigve Marketing
Society Ltd. Nagpur)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Shri N.B. Kalwaghe, counsel for applicant.

CORAM: ROHIT B. DEO, J.

DATE: 25th July, 2018.

Heard Shri N.B. Kalwaghe, the learned counsel for the applicant. None appears on behalf of the non-applicant although duly served.

2 Challenge is to the order dated 25.4.2014 below Exh. 3 in Criminal Appeal 12 of 2014 to the extent while suspending the sentence, the applicant – accused is directed to deposit amount of Rs. 2,92,445/- i.e. 80% of the compensation.

3 The limited submission is that the condition is harsh and renders the right of appeal illusory. Shri Kalwaghe, the learned counsel states that pursuant to the interim order of this Court, the accused has deposited 25% of the compensation amount in the appellate Court. The submission is, that if the accused is compelled to deposit 80% of the compensation amount as a precondition for suspension of sentence, the statutory right of appeal shall be rendered illusory due to the onerous condition. The

submission is not entirely unfounded, although there can not be a straight jacket formula that the condition of suspension of sentence should be a particular percentage of the fine or compensation. What is onerous or extortionate would depend on the facts of each case including the amount of fine or compensation. In the present case, this Court is satisfied that the sentence can be suspended in view of the deposit of 25% of the compensation amount. The order impugned is modified to the extent 80% of compensation amount is made a condition for suspension of sentence. Instead, it is directed that in view of the deposit of 25% of the compensation amount, the sentence shall stand suspended. The application is allowed and disposed of in the afore stated terms.

JUDGE

RSB