

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL MISC. APPLICATION NO. 221 OF 2019
IN
CRIMINAL REVISION APPLICATION NO. 31 OF 2019

MOHAMMAD RAFIC SAIKALGAR ... Applicant

Versus

ALTAF MUKTAR PIRJADE AND ANR. ... Respondents

Shri Ashwin D. Bhobe, Advocate for the Applicant.

Shri M. Amonkar, Additional Public Prosecutor for Respondent No.2.

Coram:- PRITHVIRAJ K. CHAVAN, J.

Date:- 6th September, 2019

ORAL ORDER :

Heard Shri A.D. Bhobe, the learned Counsel for the applicant.

2. Shri M. Amonkar, the learned Additional Public Prosecutor waives service on behalf of respondent no.2.

3. The learned JMFC, Ponda has convicted the applicant under Section 138 of the Negotiable Instruments Act in Criminal Case No.158/OA/NIA/2017/B. The applicant is sentenced to undergo imprisonment for two months and has been directed to pay compensation of ₹3,50,000/-. In default, to undergo simple

imprisonment for three months.

4. An appeal preferred by the applicant bearing no.181/2018 also came to be dismissed by the learned Additional Sessions Judge, Panaji sitting at Ponda, by order dated 31/08/2019.

5. It is submitted by Shri Bhobe, the learned Counsel for the applicant that it is in fact a civil dispute for which the respondent no.1 has already filed a suit for specific performance of contract. Moreover, the applicant had already deposited one third amount of compensation before the Sessions Court. He was on bail during the trial and appeal. It is submitted that he has good case on merits.

6. Looking to the nature of the transaction and since the applicant has already been taken into custody, it would be just and proper to suspend the substantive sentences passed by the Courts below, pending the hearing and disposal of the revision application.

7. I, therefore, pass the following order :

(i) The applicant shall be released on executing a Personal Recognition Bond in the sum of ₹20,000/- with one surety in the like amount to the satisfaction

of the learned JMFC, Ponda and also on depositing an amount of ₹1,00,000/- within a period of two weeks from today.

(ii) The applicant shall attend the Court as and when directed.

8. The application stands disposed of.

PRITHVIRAJ K. CHAVAN, J.

NH