

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.154 OF 2019

Rajat Malappa Patil : Petitioner.
Versus
The State of Maharashtra and anr. : Respondents.

Ms. Martina Sapkal I/by Arun Sapkal & Co. for the Petitioner.
Mr. Vinod Chate, APP for the Respondent/State.
Mr. P D Dalvi for Respondent No.2.

CORAM : S. S. SHINDE, J
DATE : 30th July 2019

P.C.

1 The Petitioner has filed this Writ Petition for the following substantial reliefs :-

“(b) This Hon’ble Court be pleased to call for the records and proceedings of Criminal Appeal No.148 of 2018 from the file of Ld. Addl. Sessions Judge-5, Thane and after examining the legality, validity and propriety of the impugned order dated 25/09/2018, further be pleased to quash and set aside and/or modify the said order to the extend of the deposit of amount of Rs.20,00,000/-;

(c) That this Hon’ble Court be pleased to consider the quantum of the fine of Rs.20,00,000/- (Rupees Twenty Lakhs only) and give credit to the amount of Rs.14,75,000/- paid to the Respondent No.2 and reduce the payment of deposit of Rs.20.00 lakhs in the interest of justice.”

2 The learned counsel appearing for the Petitioner submits that the provisions of Section 143 of the Negotiable Instruments Act are not applicable

in the present case inasmuch as the proceedings initiated against the Petitioner by the contesting Respondent were prior to amendment of the said provision. It is submitted that already the Petitioner has paid approximately Rs.25,00,000/- (Rupees Twenty Five Lakhs only). He submitted that the said contention of the Petitioner has not been considered by the Sessions Court. It is submitted that due to recession in construction business, the Petitioner is not able to pay the balance amount. The learned counsel for the Petitioner invites this Court's attention to the grounds taken in the Petition, annexures thereto and submits that the Petition deserves consideration.

3 On the other hand, the learned counsel appearing for the contesting Respondent invites this Court's attention to the reasons assigned by the Additional Sessions Judge – 5, Thane in the impugned order and submits that as a matter of fact the Petitioner was supposed to comply with the directions as contained in the operative part of the Additional Sessions Judge-5, Thane within four weeks from the date of the impugned order i.e. 25/09/2018. On this count alone, the Petition deserves to be rejected thereby giving directions to the Sessions Court to ensure implementation/execution of the order impugned in this Petition.

4 After appreciating the rival contentions and upon perusal of the grounds taken in the Petition and the annexures thereto as also the reasons

assigned by the Sessions Court in the impugned judgment and order and in particular paragraphs 35 to 37 and 40, this Court is of the opinion that the Petition deserves no consideration. It appears that there was a settlement between the parties, and to fulfill the terms of the settlement, the Petitioner issued a cheque, which was admittedly dishonoured on presentation in the Bank. The Sessions Court has observed that even the notice issued by the complainant was not replied to by the Petitioner. On the whole, it appears that the Petitioner is in breach of the directions as contained in the operative part of the impugned order dated 25/09/2018 and also not fulfilling his obligations pursuant to the terms of settlement. No case is made out to exercise extraordinary writ jurisdiction of this Court. There is no merit in the Petition. The Petition stands rejected.

[S. S. SHINDE , J]