

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 167 OF 2015**

Chandrashekhar Prabhakar Shinde. ..Applicant.

V/s.

Suresh Laxman Gaikwad and anr. ..Respondents.

Mr. Ganesh Bhujbal I/b. Mr. Abhijit B. Kadam, advocate for applicant.

Ms. Sneha G. Sanap, advocate for respondent No. 1.

Mr. S.S. Pednekar, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : APRIL 10, 2019.

P. C. :

1 Learned Counsel for the respondent No. 1 submits that ever since she had proposed settlement of the matter, the respondent No. 1 is not responding. The applicant herein happens to be money lender. The agreed rate of interest between the money lender and the accused was decided at the rate of 15% per annum. However, it is the contention of the respondent that it is an exorbitant rate and it is not agreed by the accused-respondent.

2 In any case, it is an agreed rate of interest and in the matter under section 138 of the Negotiable Instruments Act, the question is whether the Court in matter under section 138 of the Negotiable Instruments Act can go beyond the agreement between parties. Hence,

Talwalkar

the application seeking leave to appeal deserves to be allowed. Hence, leave granted. The application is disposed of accordingly.

3 Appeal admitted.

4 Action under section 390 of the Code of Criminal Procedure, 1973 be initiated.

5 The respondent No. 1 shall surrender before the Judicial Magistrate, First Class, Nashik Road within one week from today and shall furnish P.R. Bond in the sum of Rs. 15,000/- and one or more sureties in the like amount.

6 The respondent No. 1 shall report to the Judicial Magistrate, First Class, Nashik Road once in 6 months on the date assigned by the concerned court. Upon failure to attend any two consecutive dates, the Judicial Magistrate, First Class, Nashik Road shall inform the same to the High Court and the prosecution is at liberty to move for cancellation of bail.

[SMT. SADHANA S. JADHAV, J.]