

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.2725 OF 2017**

Kashnath L. Patil

..

Petitioner

Vs

Mrs. Pratima Shah& Anr.

..

Respondents

...

None for the Petitioner.

Mr. Amol Patankar for Respondent No.1.

Mr. H.J. Dedhia, A.P.P. for the State.

CORAM: SMT. BHARATI DANGRE, J.

DATED : 26TH SEPTEMBER, 2019.

P.C:-

1. None for the Petitioner. Heard learned counsel for the Respondents.

2. Perusal of the Writ Petition discloses that the Petitioner is aggrieved by the order passed by the City Sessions Court at Bombay, Borivali Sub-Division on 23/03/2017. The said order is

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passed on presentation of the Criminal Appeal No.76 of 2017 being aggrieved by Order dated 03/12/2015 passed in C.C. No.4300867/SS/2008 by the Metropolitan Magistrate, 43rd Court, Borivali, Mumbai.

3. The Petitioner is aggrieved by the direction to deposit the compensation amount of Rs.43.5 lakhs in the 43rd Court of Metropolitan Magistrate, at Borivali and produce the receipt thereof before filing the Application for suspension of sentence and bail. The said order is passed in the year 2017. However, it is pertinent to note that by Act 20 of 2018, Section 148 has been inserted in the Negotiable Instruments Act, 1881 which stipulates that in an appeal by the drawer against conviction under Section 138, the Appellate Court may order the Appellant to deposit such sum which shall be a minimum of 20% of the compensation awarded by the trial court.

4. The Petitioner is aggrieved by the direction of the Sessions Judge to deposit the 100% of the amount.

5. In the light of the 2018 amendment in the Negotiable Instruments Act, 1881, I am inclined to partly allow the Writ Petition by modifying the order dated 23/03/2017 and directing the Petitioner to deposit 20% of the compensation amount and upon such deposit being made, the Application for suspension of sentence and bail be decided. Since the Criminal Appeal has been instituted in the year 2017, it is directed that the same shall be decided expeditiously.

6. The Writ Petition is disposed of in the aforestated terms.

(SMT. BHARATI DANGRE, J.)