IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.3225 OF 2018

M/s.Manibhadra Enterprises and anr. …Petitioners

Versus

State of Maharashtra & anr. …Respondents

Mr.Kapil Dave i/b. Mr.Hitesh Patel for petitioners.
Mr.A.R. Patil, APP for the respondent – State.
Mr.Jatin Shah a/w Mr.Akshay Shetty i/b. Mr.Milind Dhande for respondent no.2.

CORAM : MRS. MRIDULA BHATKAR, J.

DATE : 30th JANUARY 2019

P.C. :

1. Rule. Rule made returnable forthwith.

2. The learned counsel waive notice of Rule.

3. Heard finally at the stage of admission by consent of the parties.

4. This petition under Article 227 of the Constitution of India is directed against the order dated 28th June, 2018 passed by the Additional Sessions Judge, Greater Mumbai in Miscellaneous Application No.1270 of 2018, directing petitioner no.2 i.e. appellant no.2 to deposit 50% of the compensation amount with interest @ 9%

p.a. before the Trial Court within a period of four weeks at the time of suspending the sentence till disposal of Appeal No.396 of 2018 which is pending before the Session Court.

5. Learned Counsel for the petitioners has submitted that the amount of cheque is Rs.30,32,739/-. The learned JMFC, 28th Court, Esplanade, Mumbai by the judgment and order dated 13th April, 2018 has directed petitioner no.2 to pay compensation in the sum of Rs.26,82,739/- with simple interest @9% p.a. since the date of cheque i.e. from 18th February 2011. Learned Counsel submits that the order of depositing 50% of the compensation is too high, and petitioner no.2 has prayed and showed readiness to deposit the reasonable compensation amount i.e. 25% to 30% of the amount of the compensation. Learned Counsel submits that he has already paid Rs.3,50,000/- to the complainant during the pendency of the trial. He prays that the order of depositing 50% of the compensation be set aside.

6. Learned Counsel for respondent no.2/original complainant while opposing the Writ Petition, opposed the prayer for payment of 50% of the amount of compensation in view of amendments under Sections 143A and 148 of the Negotiable Instrument Act, 1881.

7. I have considered the submission that the debt is liable to be paid since 2011. In view of this, the following order;

ORDER

i) The order dated 28th June, 2018 directing petitioner no.2 to deposit 50% of the compensation amount is modified and instead of 50% of the compensation amount, petitioner no.2 is directed to pay 30% of the compensation amount which was due on the date of filing the Criminal Appeal.

ii) The compensation amount shall be paid in three installments. First installment of 10% of the compensation amount is to be paid on 5th February 2019. The second installment of 10% of the compensation amount is to be paid on 26th February 2019 and the third installment of the remaining 10% of the compensation amount to be deposited on 25th March 2019.

iii) It is made clear that no further extension will be granted even if sought.

iv) Rule made absolute accordingly.

v) Writ Petition stands disposed of.

[MRIDULA BHATKAR, J.]