

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.4308 OF 2019

Babarraoji Shinde Sugar and allied Industries]

Ltd. At Post Turk Pimpri, Tal. Barshi,]

Dist. Solapur and another.] Petitioners

Vs.

The State of Maharashtra and others.] Respondents

.....
Ms. Manisha P. Devkar a/w S.M. Katkar, for the Petitioners.

Ms. P.P. Shinde, A.P.P, for the Respondent No.1-State.

Ms. Rajeshwari Patil i/b Bhooshan R. Mandlik, for Respondents No.2 and 3.

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CORAM : REVATI MOHITE DERE, J.

DATE : 13TH NOVEMBER, 2019.

P.C. :

Heard learned Counsel for the parties.

2. Rule. Rule is made returnable forthwith with the consent of the parties and is taken up for final disposal. Learned Counsel appearing for the respective respondents waive notice on behalf of the respondents.

3. By this Petition, the petitioners have sought the following substantive prayer;

“(b)That this Hon’ble Court after examining legality, propriety and correctness of Judgment and Order dated 05.07.2019 passed by Ld. Addl. Sessions Judge, Kolhapur in the Cri. Revn, Application No.184 of 2018 may kindly be pleased to quash and set aside the impugned Judgment and Order dated 05.07.2019 passed by the Ld. Addl. Sessions Judge, Kolhapur in the Rev. Application No.184 of 2018 and thereby further quash and set aside the order dated 01.11.2018 passed by the Ld. 11th Judicial Magistrate First Class, Kolhapur in SCC No.3522 of 2018”.

4. Learned Counsel for the petitioners submits that no interim compensation under section 143A of the Negotiable Instrument Act could have been awarded to the respondents No.2 and 3 by the trial Court. Learned Counsel for the petitioners relied on the judgment of the Apex Court in the case of **G.J. Raja Vs. Tejraj Surana, 2019 SCC Online SC 989**. She submitted that the criminal case was filed in July, 2018, whereas section 143A was inserted with effect from 1st September, 2019.

5. Learned Counsel for the respondents No.2 and 3 have tendered an affidavit of the respondents No.2 and 3. The said affidavit is taken on record. In the said affidavit, the respondents No.2 and 3 did not dispute the proposition of law enunciated by the Apex Court in **G.J. Raja** (supra).

6. Perused the papers. Admittedly, Criminal complaint has been filed by the respondents No.2 and 3 on 16th July, 2018. Section 143A giving power to direct interim compensation was

inserted in the Negotiable Instrument Act by the Amendment Act 20 of 2018 with effect from 1st September, 2018. In paragraph 14 of the said judgment passed by the Apex Court, the Apex Court has dealt with the question whether section 143A of the Negotiable Instrument Act was retrospective. The Apex Court while considering the issue regarding applicability of section 143A to offences under section 138 of the Act, committed before the insertion of section 143A, in paragraph 23 of the said judgment held that section 143A of the Negotiable Instrument Act was not retrospective in nature and was confined to cases only where offences were committed after the introduction of section 143A.

7. Learned Counsel for the respondents No.2 and 3 also did not dispute the said proposition and accordingly have filed their affidavit.

8. Considering the aforesaid legal position, the Petition is allowed. Rule is made absolute in terms of prayer clause (b). Petition is accordingly disposed of.

9. It is made clear that merits of the case have not been considered.

10. All the parties to act upon the authenticated copy of
this order.

[REVATI MOHITE DERE, J.]