

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 5009 OF 2018

Shantaram Rama Pawar

...Petitioner

Versus

Sandeep Ramesh Aher & Anr.

...Respondents

Mr. Sachin Chavan for petitioner.

Mr. S.P. Dighe, for respondent no. 1.

Mr. A.R. Patil, APP for State.

**CORAM : S. S. SHINDE, J
DATE : 24th June 2019**

P.C.

1. This petition takes an exception to the order dated 15.02.2017 passed by Ld. Sessions Judge, Nashik in Criminal Revision No. 41 of 2017 and also judgment and order dated 15.11.2016 passed by the Judicial Magistrate First Class Court, No. 6 Nashik in Criminal M.A. No. 245 of 2015.

2. Learned counsel appearing for the petitioner submits that, the petitioner had undergone in default sentence and therefore, there is no question of paying amount of Rs. 7,30,000/- towards compensation to the petitioner. Learned counsel appearing for petitioner submits that, therefore, petition deserved to be allowed.

3. On the other hand learned counsel appearing for contesting respondent by relying upon the judgment of Hon'ble Supreme Court in the case of Kumaran Vs. State of Kerala & Anr. 2007 ALL MR (Cri) 2641 (S.C.) submits that, even though the petitioner had undergone in default sentence

nevertheless he is not exempted from paying amount towards compensation as ordered by the Trial Court.

4. Upon appreciating rival contentions and the reasons assigned by the Courts below and ratio laid down by Hon'ble Supreme court in the case of **Kumaran** (supra), the contention of learned counsel appearing for petitioner that, the petitioner has undergone in default sentence and therefore, he is not obliged to pay compensation amount cannot be accepted. The Hon'ble Supreme Court in the aforesaid judgment has made it clear that, though in default sentence has been suffered by the accused, compensation would be recoverable in the manner provided under section 421(1) of Criminal Procedure Code.

5. In the light of the aforesaid reasons, no case is made. Hence, writ petition stands rejected.

[S. S. SHINDE , J]