

Vidya Amin.

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

**CRIMINAL APPLICATION NO. 636 OF 2017
IN
CRIMINAL BAIL APPLICATION No. 556 OF 2017
IN
CRIMINAL REVISION APPLICATION No. 568 OF 2017**

Abhay Gangadhar Pagdhare ... Applicant
VS.
Hasmukh Amrutlal Shah & Anr. ... Respondents

Mr. Tapan Thatte i/b. Yogita Deshmukh, Advocate for the applicant.
Mr. R.S. Apte, Senior Advocate i/b. Mallika A. Ingale, Advocate for
the respondent No. 1/original applicant in Revn. 568/2017.
Mrs. Veera Shinde, APP for the respondent no. 2/State.

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: 8th March, 2019**

P.C. :

This Criminal Application is moved by the applicant/original complainant seeking permission to withdraw total amount of Rs.17,00,000/- deposited by the respondent no.1 /accused in the Sessions Court, Palghar.

2. The learned counsel for the applicant submitted that the total amount is Rs.20,00,000/-. Out of Rs.20,00,000/-, Rs.3,00,000/- were already deposited in the trial Court and the complainant has withdrawn the said amount. He prays that the remaining amount

of Rs.17 lakhs be allowed to be withdrawn on an undertaking as contemplated under section 148 of Negotiable Instrument Act.

3. The learned senior counsel Mr. Apte for the respondent/accused opposed the Application and submitted that the very judgments of the learned Civil Judge Senior Division, Palghar and learned Sessions Judge, Palghar are perverse and not sustainable in law. The learned senior counsel submitted that ex-facie there is no legal liability on the accused and the accused has very good case on merits. He submitted that before giving permission to withdraw the amount, the matter is to be heard on merits at this stage. The learned senior counsel submitted that if at all the Application is allowed, then all the contentions are to be kept open at the time of hearing of Revision application.

4. Heard the submissions. Considered the amended provisions of Sections 143A and 148 of Negotiable Instruments Act. In view of the legislative intent manifest in the provision of Section 148 of Negotiable Instruments Act, I am of the view that 50% of the cheque amount is allowed to be withdrawn by the applicant/complainant. The cheque amount is Rs.20,00,000/- and

Rs.3,00,000/- is already withdrawn, hence out of Rs.17,00,000/-, Rs.7,00,000/- is allowed to be withdrawn by the complainant on an undertaking that he should repay the amount so released with interest at the bank rate as published by the Reserve Bank of India within 60 days from the date of the order of acquittal if passed. The undertaking is to be submitted in this Court within one week. Thereafter the complainant is allowed to withdraw the said amount of Rs.7,00,000/-.

5. The remaining amount of Rs.10,00,000/- is to be kept in a Fixed Deposit in any nationalized bank till the completion of hearing of Revision Application.

6. Criminal Application is disposed of.

7. Place the Revision Application on 28th June, 2019.

(MRIDULA BHATKAR, J.)