

**HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO**

**CRIMINAL REVISION CASE No.342 of 2019**

**ORDER :**

There are no grounds to interfere with the order not giving further extension, on 10% of the compensation/fine amount, pending appeal, sought for deposit for non compliance, leave about the expression of the Apex Court in *Dilip S. Dahanukar Vs. Kotak Mahindra Company Limited*<sup>1</sup>, no where provided after time fixed for payment of any reasonable amount out of it, in further extension to place reliance on it.

Now coming to the condition in one of the material papers that the lower appellate Court is not proceeding to decide the appeal, at the instance of the respondent/complainant, from his insisting of submitting arguments only on deposit concerned, neither complainant/respondent to appeal before the lower Court nor accused/appellant before the lower Court got to say in such a way and if at all any party not chosen to argue the matter on merits, the lower appellate Court is not power less, but for under Section 386 and 390 Cr.P.C. to decide the appeal on merits as laid down by the Constitutional Bench expression of the Court in *Banisingh and others v. State of U.P.*<sup>2</sup>.

With these observations, the revision rather than dismissal, is disposed of.

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<sup>1</sup> 2007 (6) SCC 528

<sup>2</sup> AIR 1996 SC 2439

Miscellaneous petitions pending, if any, shall stand closed.

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**Dr. B. SIVA SANKARA RAO, J**

Dt. 03.04.2019

**Note:**

Issue C.C. by 04.04.2019.

B/o.

vhb

