

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**927 CRIMINAL APPLICATION NO. 2353 OF 2021
IN CRIMINAL REVISION APPLICATION NO.83 OF 2021**

**SHOBHABAI W/O. SAHEBRAO WAGHCHAURE
VERSUS
MANOJ BABURAO ADMANE AND ANR.**

Shri. M. R. Sonawane, Advocate for the applicant
Shri. A. K. Bhosle, Advocate for respondent No.1
Shri. S. W. Mune, APP for the respondent/State

CORAM : M. G. SEWLIKAR, J.

DATED : 22nd OCTOBER, 2021

PER COURT :-

1. Heard.
2. Learned counsel Shri. Sonawane for the applicant states that he has filed application for withdrawal of the amount of Rs. 12 lakhs deposited by the complainant in the trial Court and this Court as well. He submits that this amount can be withdrawn in terms of newly added Section 148 of Negotiable Instruments Act.
3. Learned counsel Shri. Bhosale for respondent No.1 opposes the withdrawal of the amount. He submits that if the Court comes to the conclusion that amount is to be

paid in that case undertaking may be taken from the applicant.

4. Newly added Section 148 reads as under:-

“148. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, in an appeal by the drawer against conviction under section 138, the Appellate Court may order the appellant to deposit such sum which shall be a minimum of twenty per cent of the fine or compensation awarded by the trial Court.

Provided that the amount payable under this sub-section shall be in addition to any interim compensation paid by the appellant under section 143A.

(2) The amount referred to in sub-section (1) shall be deposited within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the appellant.

(3) The Appellate Court may direct the release of the amount deposited by the appellant to the complainant at any time during the pendency of the appeal.

Provided that if the appellant is acquitted, the Court shall direct the complainant to repay to the appellant the amount so released, with interest at the bank rate as published by the Reserve Bank of India, prevalent at the beginning of the relevant financial year, within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the complainant.”

5. In terms of this section Appellate Court can permit the original complainant to withdraw the amount. In view of this, applicant is permitted to withdraw amount of Rs. 12 lakhs (i.e. the amount deposited in the trial Court by the order of this Court and the amount deposited in the trial court during pendency of the appeal) with interest if any on furnishing undertaking and if the revision is allowed, the complainant shall repay the amount so released with interest at the bank rate as published by the Reserve Bank of India prevalent at the beginning of the relevant financial year forthwith. Undertaking be given before the First Appellate court at the time of withdrawing the amount.

6. Criminal Application No. 2353 of 2021 is disposed of.

[M. G. SEWLIKAR, J.]

ssp