

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Interim Application No. 1950 / 2021
in
Criminal Revision Application No. 612 / 2018

Avtar Singh Sethi .. Applicant

Versus.

The State of Maharashtra and Ors. .. Respondents

Mr. Diwakar Gond a/w Mr. Manal Dhanani, Advocate for the Applicant in I.A. No. 1950/2021 and for Respondent in Revision Application No. 612/2018.

Mr. C.K. Talekar, Advocate for Applicant in Revision Application No. 612/2018 and for Respondent in I.A. No.1950/2021.

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

CORAM : SANDEEP K. SHINDE J.

DATE : 20th OCTOBER, 2021.

P.C. : -

Heard. Learned Counsel for the Applicant and Mr. Talekar, learned Counsel for the Respondents.

1. Feeling aggrieved by the conviction under Section 138 of the Negotiable Instruments Act and the sentence, being confirmed in appeal accused have preferred the Revision Application before this Court and sought suspension of the sentence. On 16th January, 2019, sentence was suspended and the Applicant-accused were directed to deposit Rs. 35 Lacs each, in two installments. The Applicant No. 3 – Dilip Shah has deposited Rs. 35 Lacs in the Court of learned Metropolitan Magistrate, 48th Court at Andheri, Mumbai; however, Shailesh Raval and Sanjay Thatte have not deposited the amount, as directed by this Court.

2. Mr. Talekar, learned Counsel for the Applicant-accused has tendered an affidavit of Shailesh Raval and Sanjay Thatte, sworn on 11th October, 2021 by which, they have undertaken to deposit Rs. 35 Lacs each, in the Court of learned Metropolitan Magistrate, 48th Court at Andheri, Mumbai in C.C. No.

2185/SS/2021 as per the schedule set out in the affidavit. Affidavit is taken on record and marked 'X-1' for identification. Learned Counsel for the Complainant has no objection if the amount is deposited as per the schedule set out in the affidavit.

3. This application is moved by the Complainant, seeking permission to withdraw Rs.35 Lacs, deposited by Dilip Shah.

4. Herein, the subject cheques were issued somewhere in between 2008 and 2011 and two Courts have recorded findings against the accused. As such Complainant has been kept out of pocket the cheque amount over a period of ten years. In consideration of these facts, the Complainant is permitted to withdraw Rs.35 Lacs deposited by Mr. Dilip Shah in the Court of learned Metropolitan Magistrate, 48th Court at Andheri, Mumbai, on an undertaking that if

the Revision is allowed, he shall bring back money as that may be directed by this Court, while deciding the Revision Application.

5. Interim Application is allowed in the aforesaid terms and disposed of accordingly.

(SANDEEP K. SHINDE, J.)

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