

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Interim Application No. 2415 / 2021
in
Criminal Revision Application Stamp No. 2752 / 2020

M/s. Suyash Associates and Anr. .. **Applicants**

Versus.

M/s. Vikram Properties and Ors. .. **Respondents**

Ms. Neha Parte i/by S.M. Sabrad, Advocate for
Applicant.

Mr. Pavan S. Patil, Advocate for Respondents.

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

CORAM : SANDEEP K. SHINDE J.

DATE : 1st DECEMBER, 2021.

P.C. : -

1. Revision Applicants, were convicted and sentenced to suffer simple imprisonment for three months for an offence under Section 138 of the Negotiable Instruments Act. They were also directed to pay collectively compensation quantified at Rs.

1,10,00,000/- (Rupees One Crore Ten Lakhs Only).

The conviction and sentence was confirmed in Criminal Appeal No. 79/2017 by the learned Additional Sessions Judge, at Pune.

2. The conviction and sentence is assailed in the Revision Application Stamp No. 2752/2020. Pending proceedings, Revision Applicants have deposited Rs. 25 Lakhs in the trial Court (Summary Case NO. 2249/2014) i.e. 28th Joint, Civil Judge, Junior Division and Judicial Magistrate First Class, Pune.

3. Complainant (Respondent herein) has moved this application seeking permission to withdraw Rs. 25 Lakhs.

4. Heard learned Counsel for the parties.

5. The cheque was drawn in favour of Complainant in 2013. Two Courts have held that it was drawn in discharge of legally enforceable debt. Thus, the Complainant has been kept out of pocket of the

cheque amount, nearly for seven years and more. In consideration of this fact, I am inclined to allow the Complainant to withdraw Rs. 25 Lakhs, deposited by the Revision Applicants in the trial Court, on an Undertaking that Complainant shall bring back the amount of Rs. 25 Lakhs, in case, the Revision Applicants succeed in the Revision and as that may be directed by this Court.

6. On an application being moved by the Applicants (Original Complainant) alongwith an Undertaking, trial Court shall pay Rs. 25 Lakhs to the Complainant, net of interest accrued thereon.

7. Interim application is disposed of in the aforesaid terms.

(SANDEEP K. SHINDE, J.)

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by MOHAMMAD
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