

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APPR) NO.199/2019

IN

CRIMINAL REVISION NO.94/2014 (D)

Dharmadatta s/o Haynath Wankar

..vs..

Vasant s/o Shamraoji Agase and anr

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders

Court's or Judge's Order

.....
Shri A.R.Bhole, Counsel for the Applicant.

CORAM : V.M.DESHPANDE J.

DATED : JANUARY 14, 2021.

1. This is an application for modification of order dated 21.2.2019.
2. Heard learned counsel Shri A.R.Bhole for the applicant.
3. Applicant-Dharmadatta, faced a prosecution in respect of offence punishable under Section 138 of the Negotiable Instruments Act. The applicant was convicted by learned Magistrate and his appeal was dismissed by learned Additional Sessions Judge at Yavatmal on 19.5.2014. Against the said, the applicant approached to this Court by filing Criminal Revision Application No.94/2014.
4. The revision was heard on its own merits and this Court (Coram : M.G.Giratkar, J.) on 21.2.2019 allowed the revision and set aside the conviction. The Court

observed that fine amount, if any, paid by the applicant, be refunded.

5. By filing the present application, the applicant is canvassing that the applicant has deposited Rs.50,000/- i.e. Rs.10,000/- before Court below and Rs.40,000/- before this Court.

6. Original complainant/respondent No.1 in the revision filed an application for withdrawal of the said amount and on 18.7.2016 this Court (Coram : S.B.Shukre, J.) allowed the application filed by the complainant on an undertaking being filed by the complainant that in case the revision is allowed, he will refund the amount.

7. Learned counsel for the applicant submits that inadvertently it is not mentioned in the final judgment about refund of the amount and he wants modification. This is impermissible since it will be seeking review of the order. The order is already passed by this Court on 18.7.2016.

8. Therefore, it will always be open for the applicant to file appropriate proceedings for recovery of the said amount before appropriate forum from the applicant.

9. With these observations, the criminal application is disposed of.

JUDGE

!! BRW !!

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