

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

30 CRIMINAL REVISION APPLICATION NO.132 OF 2022

SANJAY S/O SHAM PAWAR
VERSUS
SANTOSH S/O GOPICHAND PAWAR

.....
Advocate for Applicant : Mr. Chaitanya C. Deshpande
Advocate for respondent : Mr. A. R. Hange
.....

CORAM : BHARAT P. DESHPANDE, J.
DATED : 25th JULY 2022

PER COURT:-

1. Heard learned counsel for the respective parties.
2. By judgment and order dated 06.01.2020, the learned Judicial Magistrate, First Class, Paithan has convicted the applicant for the offence punishable under Section 138 of the Negotiable Instruments Act and sentenced him to suffer rigorous imprisonment for two months and to pay compensation of Rs.2,00,000/-, in default to undergo further rigorous imprisonment for two months.
3. The applicant had challenged the said conviction in criminal appeal No. 15 of 2020 before the learned Sessions Court at Aurangabad. Vide judgment and order dated 19.3.2022, the criminal appeal No. 15 of 2020 was partly allowed. The conviction and sentence awarded by the learned Magistrate was set aside and modified to the effect that the applicant to suffer simple imprisonment

till rising of the Court and to pay compensation of Rs.2,00,000/-, in default to suffer simple imprisonment for a period of six months.

4. In the present criminal revision application, the applicant is challenging the conviction. However, it is fairly submitted by learned counsel for the applicant that the sentence till rising of the court awarded by the appellate court is undergone. Learned counsel for the applicant submitted that initially the applicant has deposited an amount of Rs.20,000/- before the Sessions Court during pendency of the appeal and later on after pronouncement of judgment in the appeal, the applicant has deposited Rs.1,80,000/- before the appellate court. Hence, the applicant has deposited the entire compensation of Rs.2,00,000/- and therefore, there is no question of undergoing further imprisonment in default of payment of compensation.

5. Learned counsel for the respondent, who appeared without issuing notice, informed that the amount of Rs.1,80,000/- deposited by the applicant with the appellate court is still lying there and therefore, the respondent be permitted to withdraw the said amount as compensation under Section 357(3) of Cr.P.C.

6. I view of above, the respondent is permitted to withdraw the said amount with interest, if any, from the appellate court.

7. In view of above observations, nothing survives for consideration in the present criminal revision application and hence the same stands disposed of.

(BHARAT P. DESHPANDE, J.)

rlj/