

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

**CRIMINAL REVISION APPLICATION NO. 154 OF 2022
WITH
CRIMINAL REVISION APPLICATION NO. 155 OF 2022**

**BIRMAL VASUDEV BOBADE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

WITH

**CRIMINAL APPLICATION NO. 2543 OF 2022
IN
CRIMINAL REVISION APPLICATION NO. 154 OF 2022**

AND

**CRIMINAL APPLICATION NO. 2544 OF 2022
IN
CRIMINAL REVISION APPLICATION NO. 155 OF 2022**

**LAXMAN AUDUMBAR BARASKAR
VERSUS
BIRMAL VASUDEV BOBADE AND ANOTHER**

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Advocate for Applicant : Kulkarni Shailendra S.
APP for State : Smt. G. L. Deshpande
Advocate for Applicant in both Criminal Applications and for Respondent
No.2 in Revision Applications : Mr. Nikhil S Tekale

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**CORAM : BHARAT P. DESHPANDE, J.
DATE : 10th AUGUST 2022.**

Per Court :

Heard.

1. In these Criminal Applications, learned Counsel for the Respondents/Applicant herein is praying for withdrawal of the amount deposited by the Original Applicant/Respondent herein. As per order dated 24.05.2022, he submitted that an amount of Rs.2,25,000/- is deposited before the Judicial Magistrate First Class/ Appellate Court, which comes to 50% of both the cheque amounts.

2. Learned Counsel for the Respondents in both Applications, objected for withdrawal on the ground that Applicant has filed Civil Suit for recovery of the said amount and the Civil litigation is still pending before the Civil Court on remand by the Appellate Court. The Respondent No.1/Revision Petitioner filed affidavit-in-reply opposing these applications.

3. The record shows that the present Revision Applications are not admitted yet. Therefore, the Applications for withdrawal of money could be allowed on condition of giving bank guarantee. Both the

Courts below considered that the Respondent herein is guilty for the offence punishable under Section 138 of Negotiable Instruments Act. Since the Revision Applications are pending for admission and the transactions between the parties is of the year 2008, the Applicant cannot be deprived of such amount, which has been awarded by the Courts below. Hence the following order.

ORDER

- (i) Both the Criminal Application Nos. 2543/2022 & 2544/2022 stand allowed.
 - (ii) The Applicant is entitled to withdraw the amount of Rs.2,25,000/- from the Judicial Magistrate First Class/Appellate Court on the condition that he shall furnish bank guarantee of the like amount to the satisfaction of the learned Magistrate. Such bank guarantee shall continue to operate till the decision of Revision Applications on merits.
 - (iii) With these observations, the Criminal Applications are disposed of.
4. Place both the Revision Applications for admission on 05.09.2022.

[BHARAT P. DESHPANDE, J.]

Najeeb.