

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

CRIMINAL WRIT PETITION NO. 1651 OF 2022

Managing Director
Rajendra Zumberlal Kalantri
and others

.. Petitioners

Versus

The State of Maharashtra and another

.. Respondents

Mr. Avinash R. Borulkar, Advocate for the Petitioners.
Mr. Y. G. Gujarathi, APP for Respondent No. 1.

CORAM : KISHORE C. SANT, J.

DATED : 05th DECEMBER, 2022.

P. C. :-

1. Heard learned advocate for the petitioners who are accused in proceedings under Section 138 of the Negotiable Instruments Act (for short "N.I. Act") in which on conclusion of the trial they are directed to undergo sentence for three (03) months and to pay Rs. 10,00,000/- (Rs. Ten Lakh only) towards compensation that is the cheque amount. Against the order, the petitioners filed an appeal which is pending in the Court of learned Additional Sessions Judge, Osmanabad bearing Criminal Appeal No. 41/2019. In the said appeal, the original complainant preferred an application Exhibit-8 praying for direction to deposit 20% of the amount of the cheque before the Appellate Court.

The learned Additional Sessions Court by order dated 17.08.2022 was pleased to direct the petitioners/original accused to deposit an amount of Rs. 2,00,000/- (Rs. Two Lakh only) i.e. 20% of the amount of the cheque.

2. After hearing learned advocate for the petitioners for some time, this Court expressed that, the Court is not inclined to interfere in the matter. An oral prayer is made that at least time to deposit the amount of 20% of the cheque be extended by six (06) months.

3. The order is challenged on the ground that the application was moved by the complainant quoting Section 143-A of the N. I. Act. It is the submission that under Section 143-A of the N.I. Act, the power is vested only with the Trial Court and not with the Appellate Court to issue directions to deposit the interim compensation. However, looking at Section 148 of the N.I. Act, it is clear that the Appellate Court also has the power to direct the accused to pay the amount as per order of the Court which shall not be less than 20%. Thus, Appellate Court has the power to direct to pay more than 20% of the amount. Merely section is wrongly quoted in the application does not take away power of the learned Sessions Court. It cannot be said that the learned Sessions Court has passed the order without jurisdiction. The Appellate Court possesses sufficient power to direct the accused to deposit such

amount.

4. This Court finds that this ground is meritless and no interference is required in the petition on that count.

5. Since this is the only prayer that is made now, this Court feels that no notice is necessary to be issued to respondent No. 2 as no serious prejudice will be caused if the time is extended by some period. Hence, the following order.

ORDER

(I) Time to deposit 20% of the amount of the cheque that is Rs. 2,00,000/- (Rs. Two Lakh only) pursuant to the order dated 17.08.2022 passed by the learned Additional Sessions Judge, Osmanabad in Criminal Appeal No. 41/2019 is extended by four (04) weeks.

6. The writ petition is disposed of accordingly.

(KISHORE C. SANT, J.)

P.S.B.