

4. Perused the papers. The applicants vide Judgment and Order dated 31st August, 2021 passed by the learned Metropolitan Magistrate, 73rd Court, Vikhroli, Mumbai in C.C.No. 996/SS/2017 have been convicted for the offence punishable under Section 138 r/w 141 of the Negotiable Instruments Act. Fine amount of Rs.50,00,000/- was also directed to be deposited. The said Judgment and Order of conviction has been challenged by the applicants before the learned Sessions Judge, by filing Criminal Appeal No. 467 of 2021. Alongwith the said appeal, the applicants filed Miscellaneous Application No.1410 of 2021 seeking suspension of their sentence and stay of the impugned order dated 31st August, 2021. The learned Sessions Judge vide order dated 23rd November, 2021, allowed the said Miscellaneous Application and stayed the impugned order dated 31st August, 2021 passed by the Learned Metropolitan Magistrate, 73rd Court, Vikhroli, Mumbai, till the decision of the appeal, on the condition that the applicant deposits 20% of the fine amount within one month. It was made clear in the said order that, in case of failure to deposit 20% of the fine amount within the stipulated time, the stay would stand vacated automatically. It appears that extension of time was sought on two occasions for depositing the fine amount, which time was granted by the Appellate Court. However, when the third application was filed (Exhibit-4)

seeking further extension of time to deposit the said amount, the learned Sessions Judge rejected the said application vide order dated 18th February, 2022.

5. Learned Counsel for the applicants submits that the applicants have brought a Demand Draft of Rs.10,00,000/- i.e. 20% of the fine amount and are ready to deposit the same forthwith, in the Registry of the Sessions Court. He submits that since the stay is vacated vide the said impugned order dated 18th February, 2022, the trial Court has issued a conviction warrant as against the applicants.

6. Prima facie, no infirmity can be found in the impugned order dated 18th February, 2022. However, since the applicants are ready to deposit Rs.10,00,000/- i.e. 20% of the fine amount, as directed by the Sessions Court vide order dated 23rd November, 2021, the impugned order dated 18th February, 2022 passed by the learned Sessions Judge is quashed and set aside. The applicants to deposit the compensation amount of Rs.10,00,000/- in the Sessions Court on or before 17th March, 2022. The conviction warrant issued by the trial Court is quashed and set aside subject to applicants depositing the said fine amount as directed by the Sessions Court vide order dated 23rd November, 2021.

7. Needless to state, that since the applicants have undertaken to comply with the order dated 23rd November, 2021 that is of depositing 20% of the fine amount, the order staying the impugned Judgment and Order dated 31st August, 2021 shall stand restored, subject to what is stated hereinabove.

8. Rule is made absolute on the aforesaid terms and the application is accordingly disposed of.

9. All concerned to act on the authenticated copy of this order.

10. Matter to be listed on 21st March, 2022 under the caption 'For Recording Compliance'.

REVATI MOHITE DERE, J.