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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO.187 OF 2018
IN
CRIMINAL REVISION APPLICATION NO.360 OF 2012**

Mohan Vishnu Gaikwad ... Applicant
V/s.
Anand Vaman Shinde & Anr. ... Respondents

Mr. Chintaman Shah i/by Ms. Tanu Khatri for the applicant.

Mr. A.R. Patil, APP for the respondent no.2/State.

CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 11, 2022

P.C.:

1. The complainant in a proceeding under section 138 of the Negotiable Instruments Act, 1881 has filed the present criminal application seeking initiation of contempt proceedings for disobeying the orders of this Court and for appropriate direction to deposit the amount.

2. The record discloses that by order dated 29th September 2015 this Court recorded consent terms arrived at between the parties under which the accused undertook to deposit amount of Rs.1,40,000/-. An amount of Rs.65,000/- was deposited before filing of the consent terms. He undertook to deposit the balance amount of Rs.75,000/- before the learned Magistrate. Based on the

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said undertaking, judgment and order passed by the learned Sessions Judge confirming the order of the learned Magistrate was quashed and set aside. Time to deposit the balance amount was extended by order dated 27th October 2015.

3. Since the balance amount of Rs.75,000/- was not paid, the applicant has filed present criminal application stating on oath that the accused has failed to deposit the balance amount.

4. This Court on 29th November 2019 issued notice to the respondent no.1. Office remark shows that the respondent no.1 is duly served with Court notice, with the result that the statement on oath that the accused failed to deposit remaining amount of Rs.75,000/- is under challenge.

5. Therefore, accepting the statement on oath made by the applicant, the order dated 29th September 2015 to the extent of clause (6) of the consent terms is recalled.

6. The judgment and order dated 7th September 2012 passed by the learned Sessions Judge, Thane confirming judgment and order passed by the learned 9th Judicial Magistrate First Class, Thane dated 10th October 2007 is revived.

7. The criminal application is disposed of in above terms. No costs.

8. Place criminal revision application no.360 of 2012 **for direction on 2nd December 2022.**

(AMIT BORKAR, J.)