

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO. 56 OF 2016

1. M/s. Raj Novelties
& Anr. ...Applicants
Vs.

1. The State of Maharashtra
& Anr. ... Respondents

WITH
INTERIM APPLICATION NO. 273 OF 2022
IN

CRIMINAL REVISION APPLICATION NO. 56 OF 2016

Mrs.Asha Mahendra Bhuta ...Applicant
(Orig. Respondent No.2)

Vs.
1. The State of Maharashtra
& Anr. ... Respondents
(Orig. Applicant)

Mr.Imtiyaz I. Patel for applicant.

Mr.A.R. Patil, APP for respondent No.1-State.

Mr.Zoher Tahirali Shaikh Sailawala-respondent No.2 present in-person.

CORAM : N. J. JAMADAR, J.
DATE : 4th MAY, 2022

P.C.:

INTERIM APPLICATION NO. 273 OF 2022

1. Heard the learned counsel for the applicant and Mr. Zoher Sailawala, the respondent No.2 in-person-revision applicant/accused.

2. The original respondent No.2-complainant has preferred this

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application seeking permission to withdraw the amount of Rs.1,45,000/- deposited by the revision applicant-accused, pursuant to the judgment and order dated 3rd August 2012, passed by the learned Metropolitan Magistrate, 44th Court, Andheri, Mumbai in C.C. No.24/SS/2008, whereby the accused came to be convicted for the offence punishable under section 138 of the Negotiable Instruments Act, 1881 and sentenced to suffer simple imprisonment for three months and pay fine of Rs.2,25,000/-. The learned Magistrate further directed that out of the said amount of fine, a sum of Rs.2,10,000/- be paid to the complainant.

3. The appeal preferred by the revision applicant/accused being Criminal Appeal No. 501 of 2012 came to be dismissed by order, dated 17th December 2015.

4. Pursuant to the orders passed by this Court, the revision applicant/accused has deposited a sum of Rs.1,00,000/- in addition to the amount of Rs.45,000/- deposited before the learned Magistrate, 44th Court, Andheri, Mumbai.

5. On the previous date, the revision applicant was present in-person and sought time as his counsel was not available. Today also, the applicant seeks further time on the same ground.

6. Since the learned Magistrate had passed the order to pay fine on 3rd August 2012, in a complaint which was filed in the year 2008, there is no justifiable reason to deprive the complainant from realising part of the amount of compensation ordered to be paid by the learned Magistrate.

7. Hence, the application stands allowed.

8. The amount of Rs.1,45,000/- deposited by the revision applicant/accused before the learned Metropolitan Magistrate, 44th Court, Andheri, Mumbai be permitted to be withdrawn by the original complainant-respondent No.2, subject to furnishing an undertaking that the original complainant-respondent No.2 shall bring back the said amount, in the event, the revision application is decided against the original complainant/respondent No.2 and it is held that the original complainant/respondent No.2 is not entitled to get the compensation. Such an undertaking be furnished before the learned Metropolitan Magistrate, 44th Court, Andheri, Mumbai, within a period of three weeks.

9. The Interim Application stands disposed.

(N. J. JAMADAR, J.)