

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

CRIMINAL WRIT PETITION NO.857 OF 2023

**HARESH HASMUKH RAMBHIYA
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Mr. D. P. Palodkar, Advocate for the petitioner
Mr. G. O. Wattamwar, APP for the respondent/State

**CORAM : R. M. JOSHI, J.
DATE : 25th JULY, 2023**

P.C. :-

1. This petition takes exception to order dated 27/03/2023 passed in Criminal Appeal No. 268/2022. The said order is reproduced as under:

"ORDER

This application again pressed before me. Heard both sides the 13 appeals are arising out of same transaction. It is learnt that, common evidence recorded and their copies kept in respective cases even if R & P of this case will be called hearing of Appeal of this groups will be required to be taken together to avoid conflicting decision. Hence, it will be better to call original record after compliance of High Court order."

2. Learned counsel for the petitioner states that irrespective of the provision of Section 148 of Negotiable Instruments Act, the appellate Court is duty bound to hear and decide the appeal against conviction irrespective of the fact whether compensation at the rate of 20% of the

amount of cheque is deposited or not. To support his submission he placed reliance the judgment of Delhi High Court in case of ***Naval Kishore Bilunia Vs. State of Nct of Delhi and Ors, MANU/DEOR/182622/2022.***

3. Herein this case there was direction issued by the appellate Court in all 13 matters directing the petitioner herein to deposit a compensation to the extent of 20% of the amount of the cheque. These orders were taken exception before this Court by filing 13 Writ Petitions. There is no dispute about the fact that all these petitions were disposed of by this Court by passing same order in these petitions. The operative part of the order is reproduced as under:

"The petitioner to deposit the amount as per the order dated 09.01.2023 passed by the learned Additional Sessions Judge, Ahmednagar in appeal within a period of two (02) months from today. The order is subject to filing of undertaking by the petitioner within a period of two (02) weeks from today in the learned Appellate Court. To that extent, the order of the learned Appellate Court shall stand modified."

4. Perusal of the aforesaid orders passed by this Court shows that the petitioner was directed to deposit the amount as directed by the order dated 09/01/2023 by the Addl. Sessions Judge, Ahmednagar in appeal within a period of two months. Admittedly, this order has not been challenged and this has attained finality. In the light of this order if

the order impugned is perused then it only reiterates the compliance of order passed by this Court.

5. In fact the learned Appellate Court was bound by the order passed by this Court and hence the compliance sought thereof cannot faulted with. In such circumstances, there is no application of the judgment of in case of Naval Kishore Bilunia (cited supra). This Court, therefore finds no perversity in the order impugned, hence petition stands dismissed.

(R. M. JOSHI, J.)

ssp