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

CRIMINAL REVISION APPLICATION NO.82 OF 2023

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Feroz Khan S/o Faqeer M. Khan

... Applicant

V/s.

Nirmal Javerchand Jain & Anr.

... Respondents

Mr. Vimlesh Singh for the applicant.

Ms. M.R. Tidke, APP for respondent no.2/State.

CORAM : AMIT BORKAR, J.

DATED : APRIL 11, 2023

P.C.:

1. The challenge in this revision application is to the order passed by the revisional Court thereby restoring criminal complaint filed under section 138 of the Negotiable Instruments Act, 1881 which was dismissed for non-payment of court fees. The learned Magistrate by order dated 7th October 2021 dismissed the complaint holding that the complainant has not furnished court fees despite passage of reasonable time. It also indicates that the advocate for the complainant has submitted before the Court that he has no instructions in the complaint.

2. The revisional Court by the impugned order set aside the order of the Magistrate holding that the period lapsed during pendency of the complaint was affected by covid pandemic and,

therefore, non-payment of court fees needs to be condoned liberally. The revisional Court after observing that the rules of procedure are hand-made of justice allowed the revision granting opportunity to the complainant to cure the defect.

3. Considering the reasons for dismissal of the complaint, in my opinion, the revisional Court was justified in setting aside the order on compliance of court fees. The exercise of discretion by the revisional Court is neither arbitrary nor capricious. There is no miscarriage of justice.

4. The criminal revision application, therefore, stands dismissed. No costs.

(AMIT BORKAR, J.)