

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

CRIMINAL REVISION APPLICATION NO.132 OF 2023

Kaushal Arvind Thakker

.... Applicant

versus

Jyoti Kaushal Thakker & Anr.

.... Respondents

.....

- Mr. Vikramaditya Deshmukh a/w Mr. Ketan Mutha a/w Ms. Neha Achliya i/b. Sapana Rachure, Advocate for Applicant.
- Ms. Jyoti Kaushal Thakker, Respondent No.1 (Applicant-in-person).
- Mr. N. B. Patil, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 12th JUNE, 2023

P.C. :

1. Heard Mr. Vikramaditya Deshmukh, learned counsel for the Applicant, Ms. Jyoti Kaushal Thakker, Respondent No.1 (Applicant-in-person) and Mr. N. B. Patil, learned APP for the State.

2. The Applicant has challenged the orders dated 06/05/2023 and 16/05/2023 passed by the Metropolitan

Magistrate, 61st Court, Kurla, Mumbai, in CC No.1356/MISC/2023. The Applicant has already filed DV Appeal No.94 of 2023 before the Court of Sessions challenging the original order dated 06/01/2023. That Appeal is still pending before the Court of Sessions, Greater Mumbai. In the meantime, since the Distress Warrant was issued against the Applicant he has challenged the order of issuance of Distress Warrant by way of the present Revision Application. The Vacation Bench vide order dated 23/05/2023 directed the Applicant to deposit an amount of Rs.25,00,000/- on or before 29/05/2023 and liberty was given to the Respondent No.1 to apply for withdrawal of the said amount. On deposit of the said amount, ad-interim relief was granted in terms of prayer clause (e). It was for staying of Distress Warrant dated 06/05/2023 in Execution Proceeding bearing No.CC/1356/MISC/2023.

3. After hearing learned counsel for the Applicant as well as the Respondent No.1 who appears in person, in my opinion this application can be disposed of in light of the order dated

23/05/2023 by continuing the similar directions for a period of four weeks and by directing the Sessions Court to decide pending Appeal within a period of four weeks.

4. Hence, the following order :

ORDER

- (i) Learned Additional Sessions Judge, Greater Mumbai shall decide the DV Appeal No.94 of 2023 within a period of four weeks from today after hearing both the parties.
- (ii) The learned Metropolitan Magistrate 61st Court, Kurla, Mumbai, shall not take any coercive steps against the Applicant for the aforesaid period of four weeks from today.
- (iii) The Respondent No.1 is at liberty to make an application before the Additional Sessions Court, Greater Mumbai, where the DV Appeal No.94 of 2023 is pending, for withdrawal of the amount of Rs.25,00,000/- (Rupees Twenty Five Lakhs

only), which is already deposited before the same Sessions Court.

- (iv) In case, the Respondent No.1 is not permitted to withdraw this amount, she is at liberty to make an application before this Court in accordance with law.
- (v) All the questions raised by both the parties are left open.
- (vi) It is made clear that this Court has not expressed its opinion on the merits of the matter.
- (vii) With these directions the Revision Application is disposed of.

(SARANG V. KOTWAL, J.)