

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

Criminal Writ Petition NO.3342 of 2022

Mr. Bhargav D. Chouhan
Proprietor of Shah Investment
Age 57 years, Occ: Business
Residing at A-602, Rizvi Cedar, Hanuman Tekri
Near Rahja Complex, Malad (East),
Mumbai – 400 097.

...Petitioner/
Org.Accused.

Versus

1. Mr. Ramesh Anandrao Gaikwad
Age 55 years, Occ: Service
Residing at 606, Royal CHS Ltd.,
Golden Park, Baturkar Pada, Kalyan (West)
District-Thane

...Respondent
Org.accused

2. The State of Maharashtra
Trough Mahatma Phule Police Station
Kalyan (West), Dist-Thane

...Respondent

Mr SH Mishra, Advocate for the petitioner.
Mr Amar Gharte a/w Ms Sneha Thakre & Mr Jitendra C. i/b
Mr Sandip K. For respondent No.1.
Ms MH Mhatre, APP for the State-respondent No.2.

Coram : R. N. Laddha, J.

Date : 4 November 2023.

P.C. :

Heard learned Counsel for the parties.

2. By a judgment and order dated 28 April 2022, the learned Additional Chief Judicial Magistrate, Kalyan, in Summary Criminal Case No.753 of 2009, convicted the petitioner/ accused for the offence punishable under section 138 of the Negotiable Instruments Act, 1881 (for short, 'the NI Act') and, *inter alia*, directed him to pay compensation of Rs.45,000/- to respondent No.1/ complainant.

3. Aggrieved by the said judgment and order dated 28 April 2022, the petitioner preferred an appeal bearing No.59 of 2022 before the learned Additional Sessions Judge, Kalyan. By an order dated 22 July 2022, the learned Additional Sessions Judge granted relief under section 389 of the Code of Criminal Procedure, 1973 (for short, 'CrPC') and, *inter alia*, the petitioner to deposit the entire compensation amount of Rs.45,000/-. Aggrieved thereby, the petitioner has filed the present Petition.

4. As jointly submitted by the learned Counsel for the contesting parties, the substantial prayer in this Petition has become infructuous, in view of the fact that the compensation

amount is already deposited by the petitioner with the first appellate Court; thus, nothing survives in this Petition.

5. As a result, the Petition stands dismissed as infructuous. However, taking into consideration the peculiar facts of the case, the first appellate Court is requested to expedite the hearing of the appeal. It is clarified that this Court has not examined the merits of the matter and all contentions of all the parties in this regard are left open.

[R. N. Laddha, J.]