

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

CRIMINAL WRIT PETITION NO.2685 OF 2023

Arham Infra Build Ltd.

.... Petitioner

versus

Jain Trade Links & Anr.

.... Respondents

.....

- Mr. Satyvratt Joshi i/b. Samay Pawar, Advocate for Petitioner.
- Mr. Jineshkumar Gandhi (Appeared through V.C.) i/b. Arihant Associates, Advocate for Respondent No.1.
- Mr. Arfan Sait, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 07th NOVEMBER, 2023

P.C. :

1. Heard Mr. Satyvratt Joshi, learned counsel for the Petitioner, Mr. Jineshkumar Gandhi, learned counsel for Respondent No.1 and Mr. Arfan Sait, learned APP for the State.

2. The Petitioner is the accused No.1 in Summary Criminal Case No.2496/2020 before the Additional Chief Judicial Magistrate, Nashik. The Petitioner has challenged the

order dated 23/03/2023. Thereby the learned Trial Judge directed the Petitioner to pay 20% of the amount of the cheque in question as an interim compensation to the complainant i.e. the Respondent No.1.

3. The case of the complainant is that the accused company had placed purchase order for TMT bars and steel products. Those goods were supplied. The complainant raised invoices of May and June 2019 and the total amount was around Rs.72 Crores. Out of which, around Rs.13 lakhs were paid. In repayment of the dues, 5 different cheques were issued by the Petitioner drawn on Syndicate Bank, MCB Secunderabad, R. P. Road, in December 2019, January 2020 and in February 2020 for various amounts. In the present case, the cheque was for Rs.10 lakhs. The cheque was dishonoured and the complaint was filed. The process was issued. The plea was recorded and recording of evidence was started. The complainant made an application for depositing 20% of the cheque amount. At the first instance, that application was allowed vide order dated 25/11/2021. The order was challenged before the Sessions

Court and the application was remanded back before the Trial Court. On the next occasion the impugned order was passed on 23/03/2023 directing the Petitioner to pay the amount of 20% of the amount of the cheque.

4. Learned counsel for the Petitioner states that the Petitioner has deposited the entire amount of the cheque i.e. Rs.10 lakhs before the Trial Court and the said amount is kept in a fixed deposit as directed by the learned Trial Judge. Therefore, the money is available with the Trial Court. He submitted on instructions that the Petitioner has no objection if 20% of the cheque amount is given to the complainant-Respondent No.1 on his executing necessary undertaking.

5. Learned counsel for the Respondent No.1 submits that the Respondent No.1 shall execute such undertaking.

6. Considering the reasonable stand taken by both the sides, following order is passed :

ORDER

- (i) The Respondent No.1 is permitted to withdraw 20% of the amount of cheque in question, which is the subject matter of the Trial, on his executing an undertaking in the form of affidavit, that, in case of acquittal of the Petitioner, he will pay that amount to the Petitioner with interest as per the interest rate of RBI, as directed by the Trial Court in the impugned order dated 23/03/2023, within 60 from the date of the order.
- (ii) With this order no further directions are necessary and the impugned order need not be set aside.
- (iii) With these observations, the Petition is disposed of.
- (iv) All the questions on merits of the matter are left open to be decided on merits.

(SARANG V. KOTWAL, J.)