



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,  
NAGPUR BENCH, AT NAGPUR.**

**Criminal Revision Application No. 204 of 2023**

[Sunil S/o Dinkarrao Lokhande ..vs.. Ashish S/o Prakash Nardiya]

Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's orders

Court's or Judge's orders

Mr. P. B. Patil, Advocate for the applicant

**CORAM : ANIL L. PANSARE J.**

**DATED : 26-9-2023**

The challenge is to the judgment and order dated 7-8-2023 passed by the learned Sessions Judge, Buldhana in Criminal Appeal No. 26/2020 whereby the judgment and order dated 31-8-2020 passed by learned Judicial Magistrate First Class, Buldhana in Summary Criminal Case No. 448/2013 has been confirmed. The applicant (original accused) has been convicted for the offence punishable under Section 138 of the Negotiable Instruments Act (N.I. Act) and sentenced him to pay fine/compensation of Rs. 5,45,000/-, in default, to undergo rigorous imprisonment for six months.

Learned counsel for the applicant submits that the non-applicant (complainant) was not proprietor of the firm in question and, therefore, the complaint itself was not maintainable. He further submits that the cement bags and steel were purchased by the Gram Panchayat. The applicant was not the Sarpanch at the relevant time and, therefore, the question of legal debt is also to be tested. He further submits that in another case, the facts of which are identical, the applicant has been acquitted by another Court.

Issue notice before admission, returnable in four weeks.

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**Criminal Application (APPR) No. 323 of 2023**

By the present application, the applicant/accused is seeking to suspend the sentence.

The applicant has been convicted by learned Judicial Magistrate First Class, Buldhana in Summary Criminal Case No. 448/2013, by judgment and order dated 31-8-2020, for the offence punishable under Section 138 of the N. I. Act. The applicant was sentenced to pay fine/compensation of Rs. 5,45,000/-, in default, to undergo rigorous imprisonment for six months. This judgment of conviction came to be confirmed by the learned Additional Sessions Judge, Buldhana in Criminal Appeal No. 26/2020 on 7-8-2023. Against this, the present revision application is filed.

The applicant has shown willingness to deposit 20% of the amount of compensation. However, considering the fact that the concurrent findings have been rendered by the Courts below, the sentence may be suspended subject to payment of 50% of the compensation amount to be paid within two months from today. Hence, following order.

**ORDER**

(i) The execution of the sentence imposed upon the applicant by the Judicial Magistrate First Class, Buldhana in Summary Criminal Case No. 448/2013, for the offence

punishable under Section 138 of the Negotiable Instruments Act, by judgment and order dated 31-8-2020 and which was confirmed by the learned Additional Sessions Judge, Buldhana in Criminal Appeal No. 26/2020 on 7-8-2023, is suspended subject to applicant's depositing 50% of the amount of compensation within a period of two months from today, failure to do so shall result in recalling the order passed today without further reference to the Court, and in such eventuality, the applicant shall surrender before the trial Court for undergoing imprisonment.

(ii) The applicant shall remain present before this Court at the time of final hearing of the revision.

(iii) The application is allowed and disposed of in above terms.

**(Anil L. Pansare, J.)**