



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO.790/2023

Firoz Haji Mohammad Husain Haider .Vs. Shriram Transport Finance Co. Ltd.

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

Court's or Judge's orders

Mrs. Prachi Joshi, Advocate for petitioner.

CORAM : ANIL L. PANSARE, J.

DATE : 02.11.2023

The challenge is to the order dated 10.08.2023 passed by learned Sessions Court in Criminal Appeal No.52/2023, directing the petitioner/original appellant to deposit 40% of the compensation amount of Rs.6,20,000/- in terms of Section 148(1) of the Negotiable Instruments Act, 1881 (For short the, "NI Act"). The appellate Court has noted that the case was pending for more than seven years and the respondent has been deprived of the legitimate amount.

This order has been challenged on the ground that it exceeds the scope of Section 148(1) of the NI Act, which reads thus:

"148. Power of Appellate Court to order payment pending appeal against conviction.—

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), in an appeal by the drawer against conviction under section 138, the Appellate Court may order the appellant to deposit such sum which shall be a minimum of twenty per cent. of the fine or compensation awarded by the trial Court:

Provided that the amount payable under this sub-section shall be in addition to any interim compensation paid by the appellant under section 143A."

Bare perusal of the provisions would show that the appellate Court is empowered to order the appellant to deposit the amount which will be a minimum of 20% of the fine or compensation awarded by the trial Court. The counsel for the petitioner/appellant has misinterpreted the provision when she contends that the appellate Court could not have directed the petitioner/appellant to deposit more than 20% of the fine/compensation awarded by the trial Court. What has been provided under Section 148 of the NI Act is that the appellate Court may direct the persons like the petitioner/appellant to deposit a minimum of 20% of the fine/compensation amount. The use of the word, "Minimum", will naturally empower the appellate Court to direct the appellant to deposit an amount which is more than 20%. In the present case, the petitioner/appellant has been directed to deposit 40% of the compensation amount, which is perfectly in tune with the provisions under Section 148 of the NI Act.

There is no substance in the petition. The petition is, therefore, dismissed.

(Anil L. Pansare, J.)