



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 2150 OF 2024
IN
CRIMINAL REVISION APPLICATION NO. 153 OF 2024**

Vijay S/o. Baburao Gaikwad,
Age : 62 Years, Occu. : Labourer,
R/o. Northern Br. Shirsath Hospital
Road, Shrirampur, Dist. Ahmednagar.

**... Applicant
(Orig. Accused)**

Versus

Shriram Chits (Maharashtra) Ltd.
Having its registered office at 117/112,
Dhalmal Towers, B-Wing 211,
Nariman Point, Mumbai-400 021.
Branch Office at Himalaya Tower,
2nd Floor, Flat No.7/8,
Beside Deepak Petrol Pump,
Near Zopadi Canteen, Nagar-Manmad
Highway, Ahmednagar,
Through its GPA Holder
Kedar Pandurang Khade,
Age : 42 Years, Occu. : Service.

... Respondent

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Mr. Yogesh D. Kale, Advocate for the Applicant.
Mr. Vinod Y. Bhide, Advocate for the Respondent.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 12.12.2024

Pronounced on : 14.12.2024

ORDER :

1. The present application is for suspension of sentence awarded by learned Sessions Judge, Ahmednagar, on failure of deposit the remaining compensation amount i.e. Rs.50,000/- out of Rs.1,00,000/-, awarded by learned JMFC, Court No.10, Ahmednagar, recording guilt under Section 138 of the Negotiable Instruments Act (hereinafter referred to as “N.I. Act).

2. Learned counsel for the applicant submitted that, applicant was tried for commission of offence under Section 138 of the N.I. Act and held guilty. Learned counsel further submitted that, learned First Appellate Court did not pass any sentence. Learned First Appellate Court in Criminal Appeal No.13/2018, awarded sentence of fifteen days in default. Learned counsel further submitted that, applicant has already deposited 50% compensation amount. However, on account of accident and subsequent paralysis suffered, applicant could not raise remaining amount. That, he has no financial means to deposit the amount directed by the learned Sessions Judge. Therefore, in present revision, the application is pressed for suspension of sentence.

3. Learned counsel for the respondent opposed the application on the ground that, guilt is recorded and applicant is directed to pay

compensation amount of Rs.1,00,000. Only Rs.50,000/- has been paid by the applicant and that, he has no objection to suspend the sentence if remaining 50% amount is deposited.

4. After hearing submissions and going through the papers, it emerges that present respondent is instituted proceeding against the applicant under Section 138 of the N.I. Act, bearing SCC No.3576/2013. Learned JMFC, Court No.10, Ahmednagar held guilty to the applicant under Section 138 of the N.I. Act, as the case being made out and proved. In appeal, learned Sessions Judge did not pass any sentence and seems to have passed following order :

- “1) Criminal Appeal No.13/2018 is partly allowed*
- 2) The conviction and compensation recorded by the learned Trial Court on 16.12.2017 in SCC No.3576 of 2013, is maintained.*
- 3) The sentence part is modified as under :*
 - a) The substantive sentence of 15 days simple imprisonment, is set-aside. Out of Rs.1.00 Lakh compensation, the amount of Rs.50,000/- deposited by the accused-appellant be paid to the complainant (Respondent No.1).*
 - b) The accused-appellant shall deposit the remaining amount of Rs.50,000/- in one month from today. In default, he shall undergo simple imprisonment of 15 days.*
- 4)*
- 5)"*

5. Now revision is preferred against the order of said learned Sessions Court, passed in Criminal Appeal No.13/2018 and same is still pending. Taking into account the submissions supported by papers about accident and paralysis suffered by the applicant, relief as prayed deserves to be granted.

ORDER

- i) Criminal Application No.2150/2024 is allowed.
- ii) The sentence imposed on the applicant Vijay S/o. Baburao Gaikwad, by the learned Sessions Judge, Ahmednagar in Criminal Appeal No.13/2018 on 30.03.2024, stands suspended till final hearing and disposal of Criminal Revision Application No.153/2024.
- iii) The applicant be released on P.R. Bond of Rs.15,000/- (Rupees Fifteen Thousand Only) with one solvent surety in the like amount.
- iv) Bail before the trial court.

[ABHAY S. WAGHWASE, J.]