



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

1019 CRIMINAL WRIT PETITION NO. 1801 OF 2023

JAVED RAHIM SAYYED

VERSUS

SAGAR SHAHAJIRAO NAIKWADE

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Advocate for the Petitioner : Mr. Gaikwad Amol Ratan

Advocate for Respondent : Mr. Shekade Shashikant E.

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CORAM : **SHIVKUMAR DIGE, J.**

DATE : 18th July, 2024.

P.C.:

1. By this writ petition, the petitioner is challenging the order passed below Exhibit – 4 by the Additional Sessions Judge, Beed dated 30th October, 2023 in Criminal Appeal No.82 of 2023.
2. It is contention of the learned counsel for the petitioner that the respondent had filed the complaint under section 138 of the Negotiable Instruments Act, (for short, “N.I. Act”) for dishonour of the cheque issued by the petitioner. After hearing the matter, the trial Court has convicted the petitioner under section 138 of the N.I. Act. The judgment and order of the trial Court has been challenged by the petitioner before the Sessions Judge, Beed. The learned counsel further submitted that the petitioner had filed application for suspension of sentence before the Appellate Court. While suspending the sentence, the Appellate Court has directed the petitioner to deposit 20% amount out of total compensation amount without any reasonable ground,

hence requested to allow the writ petition.

3. It is contention of the respondent that the petitioner has been convicted by the trial Court. The petitioner is liable to pay the amount as directed by the trial Court. The petitioner has preferred the appeal. While suspending the sentence, the Appellate Court has rightly directed the petitioner to deposit 20% amount out of total compensation. The order passed by the Sessions Court is legal and valid. No interference is required in it, hence requested to dismiss the writ petition.

4. I have heard both the learned counsel. Perused the impugned order passed by the Sessions Court.

5. While passing the order, the Sessions Judge has not given reasons for depositing 20% amount. The Hon'ble Apex Court in ***Jamboo Bhandari Vs. Madhya Pradesh State Industrial Development Corporation Limited and others*** reported in **(2023) 10 SCC 446**, has observed that for depositing the amount the reasoning is necessary. In the impugned order, no reasoning is given for depositing 20% amount. Hence the matter is required to be remanded back to the Sessions Court to decide it afresh and I pass the following order :-

ORDER

(i) The Writ Petition is partly allowed.

- (ii) The application below Exhibit-4 is remanded back only on the ground of giving reason for depositing 20% amount or not.
- (iii) Interim order granted by this Court to continue till deciding the application below Exhibit-4 by the Sessions Court.
- (iv) The writ petition is disposed of accordingly.

[SHIVKUMAR DIGE, J.]

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