

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

**CRIMINAL APPLICATION IN REVISION NO. 259 OF 2017
IN
CRIMINAL REVISION APPLICATION NO. 96 OF 2017**

Girish R Mehta ...Applicant

vs.

State of Maharashtra and Anr. ...Respondents

**WITH
CRIMINAL REVISION APPLICATION NO. 96 OF 2017**

Hitesh Shashikant Mehta ...Applicant

vs.

The State of Maharashtra and Anr. ...Respondents

**WITH
CRIMINAL REVISION APPLICATION NO. 97 OF 2017**

Hitesh Shashikant Mehta ...Applicant

vs.

The State of Maharashtra and Anr. ...Respondents

None for the Applicant.
Mr.H.J.Dedhia – APP for Respondent No.1 – State.

CORAM : S. M. MODAK, J.

DATE : 30th JANUARY 2024

P. C. :-

CRIMINAL REVISION APPLICATION NO. 96 OF 2017

1. The Court of Metropolitan Magistrate – Vikhroli as per the judgment dated 4th March, 2014 was pleased to convict the

Accused for the offence punishable under Section 138 of Negotiable Instruments Act, 1881 [“NI Act”]. There is simple imprisonment for six months and compensation of Rs.11,00,000/- (Rupees Eleven Lakhs Only). Whereas, this judgment was confirmed by the Court of Additional Sessions Judge - Greater Mumbai on 18th January, 2017. The present Revision is at the instance of the Complainant.

2. There is a challenge to the order dated 19th April, 2017 passed by the Court of Metropolitan Magistrate - Vikhroli. (Page No.43 of Criminal Application No.259 of 2017). The order was passed on the application filed on behalf of the Complainant for issuance of an arrest warrant. It was moved for the reason that the Accused has filed Criminal Revision but stay is not granted by this Court. Learned Metropolitan Magistrate has not issued a warrant but kept the application for further order till 2nd May, 2017. No one is present on behalf of the Applicant - Complainant. Further progress before the Metropolitan Magistrate is not informed to this Court.

3. Whereas, Criminal Revision Application No.97 of 2017 is filed by the Original-Accused. It is against the judgment of the Appellate Court. On 15th February, 2017, this Court has issued notice before admission and refused to grant stay to the impugned judgment. In fact, Complainant ought to have

brought to the notice of learned Metropolitan Magistrate about passing of the order dated 15th February, 2017. If he could have done it, learned Metropolitan Magistrate could have accepted the request for issuance of an arrest warrant. After 15th February, 2017, no further orders are sought by the Applicant-Accused. So, even if it is made clear that learned Metropolitan Magistrate is at liberty to proceed with the request made by the Complainant, it will be sufficient.

4. With these observations, Criminal Revision Application No.96 of 2017 is disposed of. Let Office to inform about this order to the concerned Court of Metropolitan Magistrate.

5. Criminal Application is also disposed of.

CRIMINAL REVISION APPLICATION NO. 97 OF 2017

6. This is a Revision against the concurrent findings of fact. The conviction is for the offence punishable under Section 138 of NI Act. On 15th February, 2017, this Court has issued notice before admission. Stay is not granted. Notice is served on Respondent No.2. This Revision is not attended since long by the Applicant-Accused. One does not know whether the parties have settled the dispute or whether the sentence is served. So, let parties be given one more opportunity.

7. Stand over to **12th March, 2024.**

[S. M. MODAK, J.]