

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO. 206 OF 2024

Prakash Parshuram Jagtap

...Applicant

vs.

The State of Maharashtra and Anr.

...Respondents

Mr.Silvin Kale:-	Advocate for Applicant.
Mr.Y.Y.Dabke:-	APP for Respondent No.1 -State.
Mr.B.A.Shaikh:-	Advocate for Respondent No.2.

CORAM : S. M. MODAK, J.

DATE : 8th MAY 2024

P.C. :-

1. Heard learned Advocate for the Applicant – convicted Accused and learned Advocate for the Respondent No.2 – Original Complainant Society.
2. The Court of Metropolitan Magistrate as per the judgment dated 14th September 2022 was pleased to convict the Applicant for the offence under Section 138 of the Negotiable Instruments Act, 1881 (“NI Act”). The sentence awarded is, simple imprisonment till rising of

the Court and compensation of Rs.1,72,626/- (Rupees One Lakh Seventy Two Thousand Six Hundred Twenty Six Only).

3. The Applicant preferred Criminal Appeal No. 76 of 2023 and applied for suspension of sentence as per Misc.Application No.2231 of 2022. The Learned Additional Sessions Judge as per the order dated 19th June 2023 was pleased to pass the following order:-

(a) The substantive sentence is suspended till the disposal of the Appeal subject to deposit of 20% of Rs.1,72,626/- within two (2) months.

4. For some financial difficulties, the Applicant could not deposit the amount before the Appellate Court. When the matter was on board before the Appellate Court on 5th March 2024, the Appellant was not present. That is why, the Court issued a non bailable warrant against the Appellant. Thereafter, the Applicant has brought a demand draft in the name of Registrar, City Civil Court issued by ICICI Bank. It is for Rs.34,526/- (Rupees Thirty Four Thousand Five Hundred Twenty Six Only).

5. Learned Advocate for the Complainant submitted that the Applicant ought to have applied before the similar Court. Be that it may, as the demand draft is brought though belatedly, it can certainly

be accepted and the liberty can be granted to the Respondent No.2 to withdraw the amount once the demand draft is encashed.

6. In view of that, following order is passed:-

ORDER

- (i) The order dated 5th March 2024 thereby issuing non bailable warrant is set aside subject to deposit of the demand draft before the City Civil Court within three (3) days and subject to encashment.
- (ii) Till that time, the non bailable warrant is stayed.
- (iii) The parties to act upon an authenticated copy of this order.

7. In view of the above, Revision Application is disposed of.

8. The Respondent No.2-Complainant is at liberty to withdraw the amount on furnishing an undertaking that they will return the amount if directed by the Appellate Court.

[S. M. MODAK, J.]