

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

**INTERIM APPLICATION NO. 2677 OF 2023  
IN  
CRIMINAL REVISION APPLICATION NO. 373 OF 2016**

M/s. Nikita Udyog ...Applicant/Ori.  
Respondent No.1

**IN THE MATTER BETWEEN**

M/s. AFX+Q Engineers And Anr. ...Applicants  
Versus  
The State of Maharashtra ...Respondent

....

Mr. Anil Kumar Matte, Advocate for the Applicant.

Mr. Gandhar Raikar, Advocate for Respondent No.1/Revision Applicant.

Mr. Arfan Sait, APP for Respondent-State.

....

**CORAM : PRAKASH D. NAIK, J.**

**DATE : 17<sup>th</sup> JANUARY, 2024.**

**P.C.:**

1. This Application is preferred by the original complainant for allowing the complainant to withdraw the amount of Rs.6,37,000/- deposited by the revision applicant before the trial Court and to direct the revision applicant to deposit the balance amount of Rs.19,13,000/- before the trial Court.

2. The Applicant has been convicted for the offence under Section 138 of Negotiable Instruments Act. The conviction is

confirmed by Appellate Court. The Applicant was convicted in four cases and sentenced to imprisonment of three months and pay compensation of Rs.4,50,000/-, Rs.5,00,000/-, Rs.10,00,000/- and Rs.6,00,000/- respectively. The conviction is challenged by preferring Criminal Revision Application No.373 of 2016, 374 of 2016, 375 of 2016 and 376 of 2016.

3. Vide Order dated 22<sup>nd</sup> February, 2018, the sentence was suspended and the revision applicant was directed to be released on bail on executing fresh bond of Rs.20,000/-. He was also directed to mark his presence to Shahupuri Police Station. It was also observed that question of directing the Applicants to deposit further amount towards the compensation shall be considered on the next date of hearing.

4. Learned Advocate for the Applicant submitted that the revision applicant has been convicted by the trial Court and the conviction is confirmed by the Sessions Court. The amount of Rs.6,37,000/- may be allowed to be withdrawn by the Applicant/complainant and that the Accused may be directed to deposit the balance amount. It is also submitted that the revision applicant has not complied the directions of reporting the

concerned Police Station.

5. Learned Advocate for the Respondent submitted that during COVID period the Police were not permitting attendance to Police Station. The amount of Rs.6,37,000/- may not be allowed to be withdrawn as there is no provision for withdrawal. Revision has to be heard finally. The Court has suspended the sentence in exercise of powers under Section 389 of Cr.P.C. and the Order passed by this Court does not stipulate withdrawal of the amount deposited by the revision applicant.

6. the revision applicant has been convicted by the Court of learned Metropolitan Magistrate vide Order dated 20<sup>th</sup> June, 2014 and sentenced to suffer simple imprisonment for three months and to pay compensation. The revision applicant had preferred an appeal challenging the Judgment of conviction. The appeal has been dismissed vide Judgment and Order dated 5<sup>th</sup> May, 2016. The subject cheque was issued in the year 2013.

7. Considering the aforesaid circumstances, the complainant can be permitted to withdraw the amount of Rs.6,37,000/- with accrued interest, if any, deposited in trial Court subject to filing an undertaking before this Court that in the event

the revision application is allowed and conviction is set aside the complainant would redeposit the said amount in this Court. As far as further depositing the amount is concerned in view of Order dated 7<sup>th</sup> December, 2023 passed by this Court, the revision application be listed for final hearing on 14<sup>th</sup> February, 2024.

8. Interim Application stands disposed off.

**(PRAKASH D. NAIK, J.)**