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

**INTERIM APPLICATION NO.1436/2020
IN
CRIMINAL REVISION APPLICATION NO.77/2019**

RAJENDRA HIRALAL KUCHERIYA ..APPLICANT

VS.

SHYAM CONSTRUCTION THR BANWARI
SHRI YADAV SINCE DECEASED THR LEGAL
HEIRS GAURI BANWARI YADAV & ORS.

..RESPONDENTS

Adv. Pritam P. Runwal a/w. Adv. Anil B. Khopade for the
applicant.

Mr. S. H. Yadav, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 12, 2024.

P.C. :

1. On 13/1/2015, the applicant was convicted under Section 138 of the Negotiable Instruments Act, 1881 and has been sentenced to suffer rigorous imprisonment for six months and further ordered to pay Rs.14 lakhs as compensation to the complainant. The order was confirmed in appeal by the Appellate Court. The Criminal Revision Application bearing No.77/2019 was filed in this Court. The said revision application was settled and the consent terms were tendered. By an order dated 25/11/2020, this Court

disposed of the Criminal Revision Application No.77/2019. In paragraph 7, this Court directed that in view of the judgment of the Hon'ble Supreme Court in the case of **Damodar Prabhu vs. Sayed Babalal H.**¹, the petitioner shall deposit 15% of the cheque amount with the Maharashtra State Legal Services Authority within four weeks from 25/11/2020.

2. The present application is made to modify and relax the condition imposed to deposit 15% of the cheque amount. The reason stated is that there are some crucial factors which could not be brought to the notice of this Court when the order came to be passed. It is submitted that the applicant was facing great hardship and difficulty due to covid-19 pandemic situation and with great difficulty had arranged for the settlement amount. My attention is invited by learned counsel for the applicant to paragraph 17 of the decision of the Supreme Court in **Damodar Prabhu** (supra). It is further pointed out that in respect of the co-accused Sankalp Enterprises also where the allegation pertained to cheating the complainant, this Court while quashing the process has not imposed any cost.

1 (2010) 5 SCC 663

3. Learned counsel for the applicant nonetheless submitted that to show his bonafides, the applicant would graciously deposit 5% of the cheque amount with the Maharashtra State Legal Services Authority within a period of four weeks from today.

4. The application is opposed by learned APP for the State. It is submitted that the order passed by this Court is in terms of what has been held by the Supreme Court.

5. In the facts and circumstances of the present case, I am inclined to modify the paragraph 7 of the order dated 25/11/2020 in the Criminal Revision Application No.77/2019 to the effect that instead of 15% of the cheque amount the applicant is permitted to deposit 5% of the cheque amount with the Maharashtra State Legal Services Authority within a period of four weeks from today.

6. The application is partly allowed and disposed of accordingly.

(M. S. KARNIK, J.)