

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 357 OF 2024
IN
REVISION APPLICATION NO. 457 OF 2017

Joseph Dcunha ...Applicant

vs.

1. Reggi Fernandes ...Respondent

Mr. Sharad T. Bhosale - Advocate for the Applicant

Ms. Rohini Khedekar i/by Mr. Hement Thakkar - Advocate for the
Respondent No. 1 in IA

Ms. Dhanalaxmi S. Krishaiyar – APP for the Respondent-State

CORAM : S. M. MODAK, J.

DATE : 20th FEBRUARY, 2024

P. C. :-

1. Heard learned Advocate for the Respondent-Complainant and
learned Advocate for the Applicant-accused.

2. There is concurrent findings of the fact and conviction is under
Section 138 of the Negotiable Instruments Act. Apart from the
substantive sentence, there is direction to pay Rs. 3,50,000/- by way of
compensation as per the Order dated 18/11/2011. This Order was
confirmed by the Appellate Court as per the judgment dated 10/04/2017.

3. While suspending the sentence, this Court has directed the
Applicant-Accused to deposit an amount of Rs. 1,50,000/- within the
time limits prescribed therein. It is deposited as per Order dated

31/08/2017. The Complainant wants its withdrawal. In para no. 4 of the said Order the submission was recorded of the Applicant-Accused that they have already deposited Rs. 70,000/- before the Sessions Court. The Complainant is also orally praying for its withdrawal.

4. The Applicant-accused has failed before the two Courts below.

5. So for the reasons stated in the interim application, the prayer can be allowed. Hence the Order:-

ORDER

- (i) The Court of the Additional Sessions Judge, Greater Mumbai is directed to permit the Complainant-Respondent to withdraw an amount of Rs. 1,50,000/-, if it is deposited by the Applicant-Accused before that Court.
- (ii) The Appellate Court is also directed to permit the Complainant to withdraw an amount of Rs. 70,000/-, if it is deposited.
- (iii) Let the Respondent-Complainant be given an undertaking before the Appellate Court that he will refund the amount, if directed by this Court alongwith interest as prescribed in the provisions of the Negotiable Instruments Act.

6. Interim Application is allowed and disposed of.

7. Revision Application be kept on **10th April, 2024** for admission

[S. M. MODAK, J.]