

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRI. REVISION APPLICATION NO. 549 OF 2024

Jaipal Annarao Desai

.. Applicant

Versus

Baban Ramchandra Nalavade through legal heir
Mangal Baban Nalavade & Anr.

.. Respondents

-
- Mr. Anant Vadgaonkar for Applicant

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CORAM : MILIND N. JADHAV, J.

DATE : OCTOBER 9, 2024

P. C.:

1. Not on board. Mentioned. Taken on board.
2. Perused the praecipe dated 09.10.2024.
3. Heard Mr. Vadgaonkar, learned Advocate for Applicant.
4. Present Revision Application takes exception to the order dated 08.07.2024 passed by learned Sessions Court below Exh. 4 in Cri. Appeal No. 24/2024. By virtue of the said order, learned Sessions Court after giving reasons concluded that considering the grounds mentioned in the Application and on application of the provisions of Section 148 of the Negotiable Instruments Act, 1881, the sentence awarded by the Trial Court needs to be suspended subject to deposit of 20% of the compensation awarded by the Trial Court. Total amount of fine / compensation is Rs. 22,05,000/-.

5. I have perused the Application dated 03.07.2024 which is appended at page Nos. 49-50 filed by Revision Applicant. It is averred in unnumbered paragraph No. 4 at internal page No. 2 that that the Appellant was bereaved due to the demise of his wife who was ailing and suffering from cancer from 2013 to 2016 and for her treatment, Appellant had virtually spent all his savings. In that view of the matter, Appellant had prayed that he would not be in a position to deposit the amount. Taking a considered view of the grounds stated in the said Application, learned Trial Court had in fact utilized its discretion and opined that the sentence awarded needs to be suspended subject to deposit of 20% of the compensation amount.

6. *Prima facie*, I would not like to interfere with the impugned order but at the request made by Mr. Vadgaonkar that there has indeed been a financial constraint on the Appellant due to the aforesaid reason, I am inclined to issue notice. However I make it clear that I shall not interfere with the impugned order but equally I am inclined to give sometime to the Appellant to deposit the said 20% amount. Appropriate instructions be taken to that respect by Mr. Vadgaonkar and the Court be informed on the next adjourned date.

7. Issue notice to Respondent No. 1. Humdast permitted. In addition to Court's notice, Revision Applicant is directed to serve copy of the Revision Application along with copy of this order on the

Respondent No. 1 and inform him about the next date of hearing by any permissible mode of service and file appropriate affidavit of service with tangible proof thereof on or before the next date.

8. Respondent is directed to take cognizance of this order and remain present before this Court on the next adjourned date.

9. In the meanwhile, in view of the present Revision Application and substantive Criminal Appeal 24/2024 filed before the Sessions Court, the order dated 10.06.2024 in SCC No.1598 of 2018 shall stand stayed.

10. Stand over to **16th October, 2024.**

[MILIND N. JADHAV, J.]

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