

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

**CRIMINAL REVISION APPLICATION NO. 351 OF 2024
ALONGWITH
INTERIM APPLICATION NO. 2657 OF 2024
ALONGWITH
INTERIM APPLICATION NO. 2656 OF 2024**

Shree Radhey Trading Co.

...Applicant

vs.

State of Maharashtra

...Respondent

Mr. Rishi Bhuta a/w. Mr. Ujjwal Gandhi, Ms. Sumitra Salunke, Ms. Swapnali Chavan, Ms. Ankita Bamboli, Ms. Risha Rathod, Ms. Sakshi Jha, Mr. Omer Farooq i/b. Mr. Pradeep Yadav :-	Advocates for Applicant.
Mr. A. S. Gawai :-	APP for Respondent No.1 -State.
Mr. Yashpal Thakur a/w. Mr. Nimeet Sharma, Mr. Vinit Vaidya i/b. HZM Legal LLP :-	Advocates for Respondent No.2.

CORAM : S. M. MODAK, J.

DATE : 5th AUGUST 2024

P. C. :-

1. Heard learned Advocate in Revision Application No. 351 of 2024. The Applicant No.1 - Proprietary Firm and Applicant No.2 were

convicted for offence punishable under Section 138 of the Negotiable Instruments Act, 1881. The conviction is imposed by Metropolitan Magistrate, 33rd Court, Ballard Pier, Mumbai on 14th October 2022. (Page-616). This judgment was confirmed by the Court of Sessions Judge, Greater Mumbai on 24th May 2024. During pendency of the Appeal, the Appellate Court has suspended the sentence by imposing condition to deposit certain amount. The Applicant No. 2 could not deposit that amount that is why he was taken in custody on 20th June 2023. Thereafter he was behind the bar during pendency of the Appeal. At the time of disposal of the Appeal, the Appellate Court granted benefit of set off.

2. Learned Advocate for Applicant has taken various grounds. They are as follows :-

- (a) Procedural compliance which includes the different representatives of the Complainant Company appeared at various stages of the case right from Andheri Court to Saharanpur Court and from Saharanpur Court to Andheri Court and then from Andheri Court to Ballard Pier Court. According to him, the concerned representatives were not authorised by the Complainant-Company.

- (b) The errors, omissions and irregularities while recording the plea of Accused No. 2.
- (c) Even though the order issuing process dated 19th August 2014 (Page-115) mentions about conduct of inquiry under Section 202 of Cr.P.C. according to him, *in fact* no such inquiry was conducted as it is reflected from the record.

3. He clarified that he will be focusing on these procedural non-compliance and on certain technical issues and in other two connected Revisions the respective Advocates will argue on other grounds. He also submitted that the substantive sentence in all these Revisions is concurrent. Though it is one year in every cases, it will be cumulatively one year only. Whereas the default sentence in every case is six months. So in total his client is required to undergo sentence for 30 months and his client has already undergone sentence of 13 months.

4. The Hon'ble Supreme Court in case of ***Satendra Kumar vs. Central Bureau of Investigation***¹ has made certain observations about the effect of the provisions of Section 436 of the Cr.P.C. So by consent of both, the parties will first focus on this aspect whether these

¹ 2022 (10) SCC 51.

observations will be applicable to the present case.

5. In that view the matter is kept on **8th August 2024 at 3:30 p.m.** for hearing on the aspect of applicability of those observations to the present case.

[S. M. MODAK, J.]