

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.2955 OF 2024
WITH

INTERIM APPLICATION NO.2962 OF 2024
WITH

INTERIM APPLICATION NO.2965 OF 2024
IN

CRIMINAL REVISION APPLICATION (ST) NO.15980 OF 2024

Javed Abdul Jabbar Ansari

Age : 52 Years, Occupation : Business,
Residing at : 243/B, Ghojaria Manzil,
Flat No. 23 (part), 2nd Floor,
Mumbai : 400008.

...Applicant

Versus

1. **State of Maharashtra**
(Through Office of Public Prosecutor)

2. **Mushtaque Noormohammed Ghojaria**
241/C, M.A. Road, Ghojaria Manzil,
1st Floor, Room No.27, Mumbai : 400008. ...Respondents

Mr.Umar Dalvi a/w Mr.Sohail Ahmed i/b. Mr.Rajendra Rathod:-	Advocates for Applicant.
Mr.Ashok Gawai:-	APP for Respondent No.1 – State.
Mr.Rahul Arora:-	Advocate for Respondent No.2.

CORAM : S. M. MODAK, J.

DATE : 2nd AUGUST 2024

P. C. :-

INTERIM APPLICATION NO.2955 OF 2024

1. Heard both the sides.
2. For the reasons stated in the Application, **the delay is condoned.**
3. Accordingly, **Interim Application stands disposed of.**

INTERIM APPLICATION NO.2962 OF 2024

AND

INTERIM APPLICATION NO.2965 OF 2024

4. Heard learned Advocate for the Applicant-Accused and learned Advocate for Respondent No.2 – Complainant.
5. There is a relationship of landlord and tenant. The Applicant is a tenant and the Respondent No.2 is the landlord.
6. Four cheques were given towards the liability of the deposit as per the Agreement. They are described in Para No.2 of the trial Court's judgment. Three got honoured whereas, cheque of **Rs.4,72,500/-** (Rupees Four Lakh Seventy Two Thousand Five Hundred Only) got dishonoured and the complaint is in respect of that cheque.
7. Both the parties have adduced evidence before the trial Court. However, the judgment was against the Applicant-Accused. The sentence is as follows:-

- (a) Simple imprisonment for **three (3) months** and fine of **Rs.5,30,000/-** (Rupees Five Lakh Thirty Thousand Only).
- (b) **Rs.5,20,000/-** (Rupees Five Lakh Twenty Thousand Only) is to be paid as **compensation to the Complainant**.

8. The Applicant took a chance before the Appellate Court¹ however, he failed on 30th January 2024. He is taken into custody.

9. According to learned Advocate for the Complainant, this is not the first cheque which was dishonoured. Earlier to that also, cheques were given but they got dishonoured. So also, a Suit is filed for eviction before the Small Causes Court and the Applicant is in arrears of rent for lakhs of rupees.

10. Today, the Applicant is in jail and his Advocate is unable to address the Court for want of instructions. Out of compensation of Rs.5,30,000/- (Rupees Five Lakh Thirty Thousand Only), an amount of Rs.1,04,000/- (Rupees One Lakh Four Thousand Only) is deposited before the Appellate Court. The contentions can be decided when the matter will be heard at the time of Admission. Hence, order:-

ORDER

- (i) Considering the submissions on behalf of the Complainant,

¹ Vide Criminal Appeal No.647 of 2018 : Additional Sessions Judge, Greater Mumbai

let the Applicant to deposit the entire remaining amount of **Rs.4,26,000/-** (Rupees Four Lakh Twenty Six Thousand Only) before the trial Court within a week.

- (ii) Subject to that, the substantive sentence of imprisonment imposed in C.C. No.700383/SS/2017 vide order dated 6th September 2018 passed by the Metropolitan Magistrate, 70th Court, Mazgaon, Mumbai and confirmed in Criminal Appeal No.647 of 2018 by the Additional Sessions Judge – Greater Mumbai vide order dated 30th January 2024 is suspended on furnishing personal bond and surety bond of Rs.15,000/- (Rupees Fifteen Thousand Only).
- (iii) The Applicant – Javed Abdul Jabbar Ansari be released only when he will deposit the amount of compensation of Rs.4,26,000/- (Rupees Four Lakh Twenty Six Thousand Only) and bail is furnished.

11. The Complainant is at liberty to request for withdrawal of that compensation.

12. In view of that, stand over to **4th September 2024**.

13. In the light of the above, **Interim Application Nos.2962 of 2024 and 2965 of 2024 are disposed of.**

[S. M. MODAK, J.]