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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 3724 OF 2024
WITH
INTERIM APPLICATION NO. 3725 OF 2024

Ramesh Dhanraj Solanki ... Applicant
vs.
Ningappa Yallappa Chalwadi & Anr. ... Respondents

Mr. Deepak Dere, a/w. Priya B. Chivarikar	Advocate for the Applicant
Mr. Kishor N. Bhatia	for the Respondent No.1 in both Interim Applications.

CORAM : S. M. MODAK, J.

DATE : 11th SEPTEMBER 2024

P.C. :-

- Interim Application No. 3724 of 2024 and Interim Application No. 3725 of 2024 and the Revision not yet numbered.
- Heard learned advocate for the Applicant, convicted accused and learned advocate for the Respondent No.1, complainant. The Applicant is convicted by the Court of Metropolitan Magistrate, Dadar, Mumbai on 13th December 2017 for an offence punishable under

Section 138 of the Negotiable Instrument Act, 1881. The sentence as follows:

(a) The simple imprisonment for three months.

(b) Compensation of Rs.6,53,750/-.

3. This conviction and sentence is maintained by the Court of Additional Sessions Judge, Greater Mumbai as per the order dated 30th August 2024.

4. During the pendency of the Appeal, the Applicant has deposited amount of Rs.1,75,000/- [Rupees One Lakh Seventy Five Thousand] before the Appellate Court. He was taken into custody when his appeal was dismissed. Yet the revision is not numbered due to some technical issues. Learned advocate for the Respondent No.1 also waives notice before admission in revision, he is supplied with all papers.

5. There are two versions before the Trial Court one by the complainant:

(a) It is issuance of a cheque by the Accused for Rs.5,00,000/- [Rupees Five Lakh] towards repayment of the consideration.

(b) The Accused has agreed to sell the flat to complainant. The complainant paid the consideration. However, the transaction

has not materialized. This cheque was issued towards repayment of the part consideration.

6. This was accepted by the Court below, whereas Accused has pleaded a different story. The cheque was issued for the purchase of iron and steel from the complainant. However, the complainant has not supplied the iron and steel, that is why no liability arises in respect of the said cheque. This was rejected by the Trial Court.

7. The complainant examined himself and the bank witness. From the accused there is no witness examined. These contentions can be gone into when the revision will be argued at the time of admission.

8. It is contended by Mr. Bhatia for the Respondent No1-complainant that both were the friends, and he expects Applicant to settle the matter and even Mr. Dere submitted that once the Applicant will come out of the jail, he will try to settle the matter. He is ready to deposit Rs.1,50,000/- [Rupees One Lakh Fifty Thousand] by way of part compensation and remaining amount within further period.

Hence, the order:

- (a) Substantive sentence of imprisonment for an offence under Section 138 of Negotiable Instrument Act passed in C.C. No.

1596/SS/2015 by the Court of Metropolitan Magistrate, Dadar, Mumbai is suspended during pendency of the revision subject to following conditions:

- (1) The Applicant to furnish personal bond and surety bond of Rs.15,000/- [Rupees Fifteen Thousand] before the Court of Additional Sessions Judge, Greater Mumbai.
- (2) The Applicant is permitted to deposit cash of Rs.15,000/- in lieu of the surety.
- (3) The Applicant to deposit Rs.1,50,000/- before the Court of Additional Sessions Judge, Greater Mumbai prior to his release on bail.
- (4) He is directed to deposit remaining amount of Rs.3,28,750/-[Rupees Three Lakh Twenty Eight Thousand Seven Hundred Fifty] within six weeks from today before same Court.
- (5) After deposit, the complainant is permitted to withdraw Rs.1,50,000/- and already deposited amount of Rs.1,75,000/- if not already withdrawn along with interest, on furnishing usual undertaking to return the

amount with interest as directed by this Court.

9. Let Applicant to furnish his current residential address on the next date as complainant is having grievance about his present address.
10. Interim Application Nos. 3724 of 2024 and 3725 of 2024 are disposed of.
11. All the parties to act on an authenticated copy of this order.

REVISION APPLICATION [UNNUMBERED]

12. Stand over to 16th October 2024.

[S. M. MODAK, J.]