

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

**CRIMINAL REVISION APPLICATION NO.488 OF 2024
WITH
INTERIM APPLICATION NO.3731 OF 2024**

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Rajaram Dhullappa Patil

...Applicant

vs.

Anil Sadashiv Shinde and Anr.

...Respondents

Mr.Padmanabh Dhondiram Pise:-	Advocate for Applicant.
Mr.H.J.Dedhia:-	APP for Respondent No.2-State.

CORAM : S. M. MODAK, J.

DATE : 13th SEPTEMBER 2024

P. C. :-

CRIMINAL REVISION APPLICATION NO.488 OF 2024

1. Heard learned Advocate for the Applicant – convicted Accused.
2. There is a conviction for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (“**NI Act**”) by the Court of Judicial Magistrate First Class – Miraj in Summary Criminal Case No.646 of 2016. The Applicant has challenged this judgment before the Court of Additional Sessions Judge – Sangli. It was dismissed on 6th

August 2024. He is taken into custody. He is convicted for simple imprisonment of six (6) months and compensation of Rs.5,50,000/- (Rupees Five Lakh Fifty Thousand Only).

3. He has deposited Rs.60,000/- (Rupees Sixty Thousand). Number of contentions are raised. The Complainant has paid Rs.5,40,000/- (Rupees Five Lakh Forty Lakh) to the Accused towards the consideration of the property. The Complainant has agreed to purchase the property from the Accused and there was an agreement executed on 27th July 2013. The payment of Rs.5,40,000/- (Rupees Five Lakh Forty Lakh) is admitted. The transaction could not be completed. The Accused issued a cheque for Rs.5,40,000/- (Rupees Five Lakh Forty Lakh). It got dishonoured. That is why, the Complaint.

4. During the trial, the Accused took a defence that he has repaid the money and he has also examined one witness. The trial Court has not believed the evidence of this witness for the reason that exactly when the amount is repaid is not clear.

5. The conviction and sentence is upheld by the Appellate Court. One more point is raised about the date appearing on the cheque return memo is 2nd April 2016. Whereas, the notice was issued on

15th February 2016. This memo does not bear a signature and stamp. Whereas, according to the Complainant, it is the computer generated memo and in fact, the date is mentioned as per the new system and it ought to have been 4th April 2016. However, the date appearing in the statement on Page No.72 is not appearing in the same manner.

6. All these contentions can be gone into when the Revision will be argued for Admission. Issue notice to the Respondent No.1 returnable on **22nd November 2024**. Private notice, in addition, is allowed. Affidavit of service be filed.

7. Even, there is a Suit filed for recovery by the Complainant. It is decreed. The Appeal is pending before the Appellate Court. Let, this matter be referred for settlement to the District Legal Services Authority – Sangli.

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8. Heard.

9. The compensation is Rs.5,40,000/- (Rupees Five Lakh Forty Lakh). Rs.60,000/- (Rupees Sixty Thousand) is already deposited. Let, receipt be produced on the next date. The Accused is ready to deposit Rs.1,50,000/- (Rupees One Lakh Fifty Thousand) more. Hence, order:-

ORDER

- (A) The substantive sentence of imprisonment in Summary Criminal Case No.646 of 2016 imposed by the JMFC – Miraj is suspended during pendency of the Revision subject to following conditions:-
- (a) On furnishing personal bond and surety bond of Rs.15,000/- (Rupees Fifteen Thousand Only) before the trial Magistrate.
 - (b) To deposit Rs.1,50,000/- (Rupees One Lakh Fifty Thousand) before the trial Magistrate within a period of four (4) weeks from today.
 - (c) On furnishing bail, he be released on bail, if not required in any other case.
 - (d) The Complainant is at liberty to withdraw 50% of that amount along with interest, if any, on furnishing an undertaking that he will return the amount along with interest, if directed by this Court.
10. Parties to act on an authenticated copy of this order.
11. In view of that, **Interim Application stands disposed of.**

[S. M. MODAK, J.]