

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

CRIMINAL WRIT PETITION NO.1776 OF 2025

**SATISH
RAMCHANDRA
SANGAR**

Liyakat Alahabax Nalband

...Petitioner

V/s.

Dhananjay Sangram Koli and Anr.

...Respondents

Digitally signed by
SATISH RAMCHANDRA
SANGAR
Date: 2025.07.29
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Mr.Rugwed Rajendra Kinkar:-	Advocate for Petitioner.
Mr.N.B.Patil:-	APP for Respondent No.2-State.

CORAM : S. M. MODAK, J.

DATE : 23rd JULY 2025

P. C. :-

1. Heard learned Advocate for the Appellant-Complainant.
2. On his complaint, the Respondent No.1 is convicted for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (“**NI Act**”). The sentence is as follows:-
 - (i) **6 months simple imprisonment** and
 - (ii) The compensation of Rs.21,77,000/- (Rupees Twenty One Lakh Seventy Seven Thousand) and 3 months simple imprisonment if it is not paid.
3. It is as per the judgment dated 16th August 2024 passed by the

Court of Judicial Magistrate First Class – Kolhapur. There is challenge to this judgment by the Respondent-Accused by way of Criminal Appeal No.82 of 2024. The Accused applied for suspension as well as for waiver of 20% of the compensation amount. The Court of Additional Sessions Judge–Kolhapur as per the order dated 9th October 2024 allowed both the prayers.

4. About suspension of sentence, there is no grievance but the grievance is about waiver. With his assistance, I have read the order dated 9th October 2024. There is no reference that the Appellate Court heard the Complainant. The provisions of Section 148 of NI Act empowers the Appellate Court to direct the Appellant to deposit money of 20% of the fine or compensation. This is in addition to the interim compensation as awarded under Section 143-A of NI Act. The Complainant has got every right to oppose the prayer for waiver. That opportunity is denied to the Complainant. Learned Appellate Court Judge has denied the Petitioner of making submissions. Though the Respondent No.1 is served, he has not appeared. The order of waiver cannot be sustained in the eyes of law. It needs to be set aside. The Petitioner can be granted an opportunity to oppose the waiver. In view

of that, following order is passed:-

ORDER

- (i) The order thereby granting waiver to the Accused to deposit 20% of the compensation amount is set aside.
 - (ii) The Appellate Court is directed to hear the waiver Application after giving an opportunity to both the sides and decide it on merits.
 - (iii) There is no observation about merits.
5. **Writ Petition is disposed of accordingly.**

[S. M. MODAK, J.]