

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

Digitally signed by  
ANAND SUDHAKAR  
SUDAME

WRIT PETITION NO. 3716 OF 2025

Date: 2025.07.19  
10:53:41 +0530

Harish Babulal Jain

.Petitioner

*Versus*

Jimmy Pesi Damania & anr.

.Respondents

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Mr. Bhavin Gada h/f. Mr. Mangesh Rangnekar, Advocates, for the  
Petitioner

Mr. Tejas Parekh a/w. Ms. Ami Parekh, Parekh Legal, Advocate, for  
Respondent No. 1

Mr. H. J. Dedhia, APP, for Respondent No. 2 - State

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CORAM : S. M. MODAK, J.

DATE : 16.07.2025

P. C.

1. Heard Mr. Gada, learned Advocate, for the Petitioner,  
Mr. Parekh, learned Advocate for Respondent No. 1 and  
Mr. Dedhia, learned APP for Respondent No. 2 – State.

2. There is a challenge to the Order dated 01.03.2025 passed by  
the learned Metropolitan Magistrate, 14<sup>th</sup> Court, Girgaon, Mumbai.  
It was passed during pendency of Complaint filed under Section  
138 of the Negotiable Instruments Act, 1881. Learned Magistrate  
directed the present Petitioner to deposit 10% of the disputed  
cheque amount to the Complainant by way of compensation within  
60 days. The period has already expired. In fact, this Order was

taken as an exception by filing the Revision Application before the Revisional Court. After hearing both the sides, the learned Judge was of the view that the Revision Application is not maintainable and hence, it was withdrawn.

3. Learned Advocate for Respondent No. 1 took an objection to the maintainability of the present Petition. He relied upon observations on the Judgment of the Punjab & Haryana High Court in the case of *Gurbir Singh vs. Maheshinder Singh Grewal and others*, reported in *CRR 1702 of 2014*. According to him, in fact, the present Petition will not be maintainable. It is true that in the present Petition, there is no reference of filing of the Revision Application before the Sessions Court.

4. Be that as it may. Learned Advocate for the Petitioner seeks liberty to withdraw this Petition and to approach the Sessions Court. About maintainability of the Revision Application before the Sessions Court, learned Advocate for Respondent No. 1 is not disputing the propositions. As such, the Application can be filed before the Revisional Court. Even though Order of interim compensation is passed at an interim stage, it has effect of deciding rights of the parties. There is a dispute about the liability. I am not making any comment about the same.

5. I asked both the parties, whether there is a possibility of an amicable settlement. 10% of the disputed cheque amount comes to Rs. 50,000/-. After taking instructions, they are ready to refer the matter to the Mediation. There is a request to direct the Petitioner to

deposit Rs. 50,000/- without prejudice.

6. Learned Advocate for the Petitioner is ready to deposit an amount of Rs. 50,000/- in the trial Court. There is a request to grant permission to Respondent No. 1 to withdraw the amount. At this stage, it cannot be granted because mediation process will take some time and the Revision Application will also be filed before the Revisional Court.

7. In that view of the matter, I proceed to pass the following Order.

### **O R D E R**

- (i) The Petitioner is granted liberty to file the Revision Application before the learned Sessions Court, Greater Mumbai.
- (ii) The Petitioner is directed to deposit an amount of Rs. 50,000/- before the learned Magistrate within a period of two weeks from today.
- (iii) Parties are referred to the Mediation Centre, City Civil Court, Bombay.
- (iv) Let the Mediator be appointed and both the parties are directed to appear before the authority at City Civil Court, Mumbai for mediation on **28.07.2025 at 11.00 a. m..**
- (v) Respondent No. 1 is permitted to apply for withdrawal of amount once mediation process is over and the Revisional Court to decide such Application after hearing both the parties.

8. The Petition stands disposed of.
9. I sincerely appreciate the co-operation given by both the learned Advocates to me in taking this line of action.

(S. M. MODAK, J.)