



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO.151 OF 2018
AND
CRIMINAL APPLICATION NO.1592 OF 2018
IN
CRIMINAL REVISION APPLICATION NO.151 OF 2018

Pralhad s/o Damodhar Ghorpade,
Age : 52 years, Occu. Agri.,
R/o Pimpriraja, Taluka and
District Aurangabad

APPLICANT
(Orig. Accused)

VERSUS

Mohan s/o Jyotiram Divte,
Age : 72 years, Occu. Business,
R/o Wadwani, Tq. Wadwani,
Dist. Beed

RESPONDENT
(Ori. Complainant)

Mr. H.I. Pathan, Advocate for the Applicant

CORAM : SANGITRAO S. PATIL, J.

DATE : 20th JUNE, 2018

ORDER :

This Revision Application is arising out of the proceeding under Section 138 of the Negotiable Instruments Act, 1881. The State of Maharashtra is neither a necessary nor a proper party. The petitioner shall delete respondent No.2/State.

2. Heard the learned counsel for the applicant.

3. The applicant has challenged his conviction for the offence punishable under Section 138 of the Negotiable Instruments Act. He has been sentenced to suffer simple imprisonment for six months and to pay a fine of Rs.10,000/-. He has deposited the fine amount in the trial Court. The judgment of conviction and order of sentence passed by the learned Judicial Magistrate has been confirmed by the Appellate Court.

4. The learned counsel for the applicant submits that the applicant has challenged his conviction and sentence on various legal and factual grounds. He is hoping for success in the Revision Application. He submits that the applicant was on bail during trial as well as during pendency of the appeal. He, therefore, prays that the Revision Application may be admitted and the substantive sentence of imprisonment passed against the applicant may be suspended during pendency of this Revision Application. He submits that the applicant is ready to deposit part of the cheque amount in the Court.

5. Since the applicant has challenged his conviction and sentence on certain legal as well as

factual grounds, he will have to be extended an opportunity to agitate his grounds of objections against his conviction and sentence before this Court. The maximum period of imprisonment inflicted against him is six months. The applicant was on bail during trial as well as during pendency of the appeal. The cheque amount is Rs.1,00,000/-. In my view, it would be just and proper to suspend the substantive sentence of imprisonment during pendency of Revision Application, if the applicant deposits 50% of the cheque amount i.e. Rs.50,000/- in the trial Court. In the result, I pass the following order:-

ORDER

- (A) The Criminal Revision Application is **admitted**.
- (B) Issue notice to the respondent sole.
- (C) In addition to regular mode of service, the applicant shall serve the respondent by private notice by any legally permissible mode of service and file service affidavit.
- (D) Call Record and Proceedings.

(E) The substantive sentence of imprisonment passed against the applicant shall remain suspended during pendency of Revision Application, on his executing bail bonds in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with a surety in the like amount, on the condition that the applicant shall deposit Rs.50,000/- (Rupees Fifty Thousand) in the trial Court within two weeks from today, failing which the order suspending the substantive sentence of imprisonment would stand vacated automatically and the petitioner would be taken into custody for suffering the remaining sentence.

(F) The bail bonds shall be furnished before the Trial Court.

(G) Inform the Trial Court accordingly.

(H) The Criminal Application No.1592 of 2018 is disposed of accordingly.

(I) Stand over to 16th July, 2018.

[SANGITRAO S. PATIL]
JUDGE

npj/crirevn151-2018+