

Order below Exh.9 in Cri.Appeal No.25/2022
[CNR NO.MHPA010013222022] P.Nagraju Vs. Saraswati

Applicant-accused filed this application for suspension of Judgment and order of conviction and compensation awarded in SCC No.348/2017, Saraswati Dhanwantari Dental College & Hospital Vs. P.Nagraju (Nagraju Pen) delivered by J.M.F.C. Court, Parbhani dated 07.04.2022 till disposal of the appeal.

02. Heard Learned Adv. B.D.Kulkarni for the appellant-accused. She submits that appellant-accused was on bail and released on bail after conviction. There is every chances of succeeding the appeal. Therefore, the sentence and conviction order be suspended.

03. Perused Judgment delivered in the said case. Perused Section 389(1) of Cr.P.C. and Section 148(1) of Negotiable Instrument Act. As per the said Judgment, appellant-accused is convicted for the offence punishable under Section 138 of Negotiable Instrument Act, as per Section 255(2) of Cr.P.C. He is also directed to pay fine of Rs. 26,00,000/- to the complainant. Out of the said amount of fine, Rs. 25,50,000/- be given to the complainant as compensation.

04. In view of section 389(1) of Cr.P.C. pending any appeal by a convicted person, the appellate Court may for reasons to be recorded in writing order that the execution of sentence or order appealed against be suspended.

05. Perused Section 148(1) of the Negotiable Instrument Act. As per the said provision, notwithstanding anything contained in the

Cr.P.C. in an appeal by the drawer against conviction under Section 138 of the said Act, the appellate Court may order the appellant to deposit such sum which shall be a minimum of 20% of the fine or compensation awarded by the trial Court.

06. As per the provision of Section 148 of N.I.Act, the amount payable under sub-section (1) of Section 148 of the said Act shall be in addition to any interim compensation paid by the appellant under section 143 of N.I.Act.

07. Sub-section(2) of Section 148 of N.I.Act states that amount referred to in section (1) of Section 148 of N.I.Act shall be deposited within 60 days from the date of the order or within such further period not exceeding 30 days as may be directed by the Court on sufficient cause being shown by the appellant.

08. As per sub-section (3) of Section 148 of N.I.Act the appellate Court may direct the release of the amount deposited by the appellant to the complainant at any time during pendency of the appeal. Hence, the appellant-accused can be directed to deposit 20% of fine amount of Rs. 26,00,000/- which comes to Rs. 5,20,000/-(Rupees Five Lakh twenty thousand) in the Court within 60 days from the date of order i.e. from today 17.10.2022 and the substantive sentence of imprisonment recorded against the appellant-accused by J.M.F.C. Parbhani in SCC No.348/2017 under the impugned Judgment and order dated 07.04.2022 can be suspended till disposal of the appeal. Hence, following order.

O r d e r.

The appellant-accused P.Nagrasju (Nagraju Pen) is directed to deposit in the Court in this matter 20% of fine amount of Rs. 26,00,000/- which comes to Rs. 5,20,000/- (Rupees Five lakh twenty thousand) within 60 days from the date of order i.e. from today 17.10.2022 and till then as per section 389(1) of Cr.P.C., substantive sentence of imprisonment recorded against the appellant-accused by J.M.F.C. Parbhani in SCC No.348/2017 under the impugned Judgment and order dated 07.04.2022 is hereby suspended till disposal of the appeal and appellant-accused is released on bail on executing P.R.bond of Rs. 15,000/- with one solvent surety in the like amount.

Date:17.10.2022.

(S.G.Borlepwar)
Additional Sessions Judge-4
Parbhani.

Dictated on:17.10.2022
Typed on:17.10.2022
Checked on:17.10.2022
Signed on:17.10.2022

(S.G.Borlepwar)
Additional Sessions Judge-4
Parbhani.