

Order below Exh. 9 in Criminal Appeal No. 31 of 2019

1. Appeal is filed against the impugned judgment and order of conviction in S.C.C. No. 115/2016 by the Ld. J.M.F.C., Dahiwadi, whereby sentenced the appellant for the offence u/s 138 of N.I. Act.

2. The Ld. Advocate for appellant submitted that in view of section 29(2) of Cr.P.C., maximum fine can be awarded to the extent of Rs. 10,000/- by the Ld. Trial Court. However, the Ld. Trial Court, by exceeding jurisdiction, awarded fine of Rs. 1,20,000/-, contrary to the provisions as laid down under Cr.P.C. and under section 143 of N.I. Act. The appellant is ready to deposit 20% of the cheque amount. According to the appellant, there are various grounds for challenging the impugned judgment and order of conviction and hence, prayed for suspension of sentence and compensation out of fine, as awarded in the impugned judgment and order of conviction.

3. After considering arguments of the Ld. Advocate for appellant I proceed to pass the following order.

ORDER

1. Application Exh. 9 in Criminal Appeal No. 31 of 2019 is hereby allowed as under.
2. Sentence awarded in impugned judgment and order of conviction dated 20/9/2019 in S.C.C. No. 115/2016 passed by the Ld. J.M.F.C., Dahiwadi is hereby suspended till disposal of this appeal, subject to deposit of 20% of the cheque amount on or before 9/11/2019.

3. So far as the fine amount is concerned, it is kept open, till appearance of the respondent complainant.
4. Appellant be released on furnishing P.R. Bond of Rs.15,000/- with like amount of surety during pendency of this appeal.

Date : 23-10-2019.

(R.K. Malabade)
Addl. Sessions Judge, Vaduj.