

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 1289 OF 2024
IN
CRIMINAL REVISION APPLICATION NO. 162 OF 2024
WITH
INTERIM APPLICATION NO. 1290 OF 2024
IN
CRIMINAL REVISION APPLICATION NO. 163 OF 2024

Gulshan Pindidas Mehra

...Applicant

vs.

Mrs.Krishna Vishwajeet Bramhacharya
Alias Krishna Sudhasmoy Banergee
and Anr.

...Respondents

Mr.Shailesh Kantharia i/b. Harshada Morey:-	Advocate for Applicant.
Mr.Pradyumna D. Sharma a/w Ms.Bhavika S. Hodar, Mr.Sandeep J. Pawar:-	Advocates for Respondent No.1.
Mr.A.D.Kamkhedkar:-	APP for Respondent No.2 – State in Interim Application No.1289 of 2024.
Mr.Y.Y.Dabke:-	APP for Respondent No.2 – State in Interim Application No.1290 of 2024.

CORAM : S. M. MODAK, J.

DATE : 2nd APRIL 2024

P. C. :-

1. Heard learned Advocate for the Applicant - convicted Accused No.1 and learned Advocate for the Respondent – Complainant.

2. The Court of Metropolitan Magistrate – Andheri tried two Accused in two separate cases for the offence under Section 138 of the Negotiable Instruments Act, 1881 (“NI Act”). The Accused No.1 is convicted. The sentence is as follows:-

- (a) Simple imprisonment for one year,
- (b) Compensation of Rs.40,000,00/- (Rupees Forty Lakhs Only).

Whereas, Accused No.2 was acquitted.

3. The Appeal preferred by the sole convicted Accused was dismissed by the Appellate Court. By way of an interim order, there was direction to pay 20% of the compensation amount. This order was challenged by the Applicant before Hon’ble Supreme Court. There are two orders passed. One is dated 3rd October 2023 and second is 5th December 2023. The Applicant was directed to deposit 20% of the cheque amount by way of interim measure. Whereas, the Special Leave Petition was dismissed.

4. Learned Advocate for the Respondent No.1 submitted that let the Applicant be asked to pay 20% of the compensation amount.

Whereas, according to learned Advocate for the Applicant, he has got a good case in Revision and grievance was raised that cheques were obtained under duress because there was FIR registered against them. The 20% of the cheque amount is already deposited and the Respondent has already withdrawn it. Let the Applicant be directed to deposit 20% of the remaining amount of the cheque.

5. The Applicant is ready to refer the dispute to Mediation also. Even, the Respondent No.1 is ready, provided the Applicant should show his bonafides for depositing certain amount. This issue can be considered on the next date. Hence, order :-

ORDER

- (A) Let the substantive sentence of conviction under Section 138 of the Negotiable Instruments Act, 1881 be suspended during disposal of the Revision and the Applicant be released on bail on furnishing personal bond and surety bond of Rs.15,000/- (Rupees Fifteen Thousand Only) **subject to following conditions:-**
- (i) Let the **Applicant to deposit 20% of the remaining amount of Rs.16 Lakhs within one month from today.** (Amount of cheque is Rs.20 Lakhs and Rs.4 Lakhs is already deposited.) (Revision Application No. 162 of

- 2024).
- (ii) Interim Application No. 1289 of 2024 is disposed of.
 - (iii) Let the **Applicant to deposit 20% of the remaining amount of Rs.24 lakhs within one month from today.** (Amount of cheque is Rs.30 Lakhs and Rs.6 Lakhs is already deposited.) (Revision Application No. 163 of 2024).
 - (iv) Interim Application No. 1290 of 2024 is disposed of.
 - (v) The Respondent-Complainant is permitted to withdraw that amount on furnishing an undertaking that the amount will be returned if directed by the Court along with interest as per the provisions of NI Act.
6. Parties to act on an authenticated copy of this order.
7. Stand over to **30th April 2024.**

[S. M. MODAK, J.]