

Vina Khapde
(P.S.)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL REVISION APPLICATION NO.385 OF 2024

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Sanjiv Jagmohan Varma

.. Applicant

Versus

Vidhya Pharmachem Pvt Ltd. And ors

.. Respondents

WITH

INTERIM APPLICATION (ST) NO.15989 OF 2024

-
- Mr. Ashok Bhatia for the Applicant.
 - Mr. H. J. Dedhia, APP for the Respondent – State.
-

CORAM : S.M. MODAK, J.

DATE : 30 JULY 2024

P.C.:

- 1.** Heard the learned Advocate for the Applicant.
- 2.** Applicant is convicted by the Court of Metropolitan Magistrate, 43rd Court, Borivali, Mumbai for the offence punishable under Section 138 of the Negotiable Instrument Act, 1881. He is sentenced as follows:-

(i) simple imprisonment for six months

(ii) compensation of Rs.37 Lakhs
- 3.** Appeal was dismissed by the Court of the Additional Sessions Judge, Borivali on 3 July 2024.
- 4.** During the pendency of the Appeal, Applicant has deposited

Rs.18,50,000/- The complainant is permitted to withdraw this amount as directed by the Appellate Court in the Judgment. Now this Revision.

5. Contention is that there was financial transaction between the complainant Vidhya Pharmachem Pvt Ltd. and one M/s. Marine Micro Tech Inc. Limited. Applicant issued a cheque in favour of the complainant by way of guarantee. This is the case is put up by the complainant. Complainant examined two witnesses. Whereas the accused also entered into the witness box and examined one director of M/s. Marine Micro Tech Inc. Limited. Contention is that the evidence is not properly appreciated. This can be considered when the Revision will be heard at the time of admission.

6. Issue notice to the complainant returnable on **3 September 2024.** Learned APP waives service of notice on behalf of the Respondent – State. The Applicant is at liberty to serve Respondent No.2 by private mode of service as permissible under law and file service affidavit to that effect before the returnable date.

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7. Not on board. Taken on board.

8. Heard.

9. It is contended that 50% of the compensation of Rs.37 Lakhs is already deposited before the Appellate Court. Hence the following order :-

- (i) Substantive sentence of imprisonment imposed by the Court of Metropolitan Magistrate, 43rd Court, Borivali, Mumbai and confirmed by the Court of the Additional Sessions Judge, Borivali is suspended during the pendency of this Revision Application on the condition that Applicant to furnish surety in the sum of Rs.15,000/- before the trial Court within a period of four weeks from today.
- (ii) The issue of deposit of the remaining amount of compensation will be considered once the complainant will put his appearance.
- (iii) Issue notice to the respondents returnable on **3 September 2024**. Private notice is allowed. Affidavit of service to be filed before the next date of hearing.