

(2008) 01 BOM CK 0091

In the Bombay High Court

Case No : Criminal Revision application No. 2 of 2007

Shri William Rosario Fernandes

APPELLANT

Vs

Shri Chander Mohan Mehta and State

RESPONDENT

Date of Decision : 24-01-2008

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 357(3)
Negotiable Instruments Act, 1881 (NI) — Section 138

Citation : (2008) 4 ALLMR 850 : (2008) 3 BomCR 675 : (2008) 5 MhLj 435

Hon'ble Judges : D.B. Bhosale, J

Bench : Single Bench

Advocate : Sudesh Usgaonkar, for the Appellant; A.D. Bhobe, for the Respondent

Judgement

D.B. Bhosale, J.—Heard learned Counsel for the petitioner and the learned Counsel for respondent No. 1. This revision application is directed against the Order of conviction in the proceedings u/s 138 of the Negotiable Instruments Act. The trial Court, vide Judgment dated 21.9.06, convicted the accused and sentenced him u/s 138 of the Negotiable Instruments Act to undergo Simple Imprisonment of three months and to pay a sum of Rs. 3,00,000/- as compensation u/s 357(3) Cr.P.C. which includes cheque amount, costs and interest for the loss and expenses caused to the complainant, in default to undergo six months Simple Imprisonment. The complainant has not challenged this Judgment for enhancement of the compensation. During the pendency of the revision petition, the petitioner has deposited Rs.2,70,000/- in this Court.

2. The learned Counsel for the applicant, on instructions from the applicant, who is present in the Court, has agreed to deposit another sum of Rs.80,000/- in this Court, within a period of one week and prayed that the Simple Imprisonment of 3 months may be reduced to till rising of the Court. He did not press this revision on merits. The learned Counsel for the respondent opposed the prayer made on behalf of the applicant.

3. Having gone through the Judgments and other material on record and

considering the overall facts and circumstances of the case, I do not find any reason not to accept the prayer made on behalf of the applicant. In the circumstances, this revision application is disposed of by following order:

The applicant is directed to deposit a sum of Rs.80,000/-in this Court, within a period of 10 days from today, failing which, he shall undergo Simple Imprisonment of 3 months as awarded by the impugned Judgment. The respondent is allowed to withdraw the entire amount of Rs.2,70,000/-which is already deposited in this Court and Rs.80,000/-, after 10 days, unconditionally. The sentence u/s 138 of the Negotiable Instruments Act, awarded by the impugned Judgment stands reduced to till rising of the Court. The revision is, accordingly, disposed of.