

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No. 855/2024  
(Arising out of SLP(Crl.)No.8248/2023)

MANOJ

Appellant(s)

VERSUS

RAJKUMAR GANPATI MANUDHANE  
(SINCE DECEASED THROUGH HIS LEGAL  
HEIRS) & ANR.

Respondent(s)

O R D E R

1. Leave granted.
2. Heard learned counsel for parties.
3. The appeal challenges the judgment and Order passed by the learned Single Judge of the Bombay High Court in Criminal Revision Application No.162 of 2022 dated 25.04.2023 thereby dismissing the revision filed by the appellant and affirming the order in appeal dated 02.05.2022. The said order was passed by the Sessions Judge dismissing the appeal preferred by the appellant against the judgment dated 17.07.2018 by which learned trial Judge convicted the appellant for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 ("the Act") and sentenced him to suffer six months simple imprisonment and fine of Rs.5,00,000/-.
4. Shri Sudhanshu S. Choudhari, learned senior counsel relies upon the judgment of this Court in "*Meters and Instruments Pvt. Ltd. & Anr. Vs. Kanchan Mehta*" reported as (2018) 1 SCC 560 and submits that the appellant has already

undergone sentence of 11 days and is willing to pay additional compensation to the complainant.

5. Mr. Nishant Ramakantrao Katneshwarkar, learned counsel for the respondent opposes the appeal.

6. In the case of Meters and Instruments (Supra), it was observed that offence punishable under Section 138 of the Act is primarily a civil wrong and the burden of proof is on the accused in view of the presumption under Section 139 of the Act but the standard of such proof is "preponderance of probabilities".

7. This Court has further held that, where the cheque amount, with interest and costs, as assessed by the Court is paid by the accused on a specific date, the Court is entitled to close the proceedings in exercise of the powers under Section 143 of the Act read with Section 258 of Cr.P.C.

8. The appellant has undergone a sentence of 11 days. The cheque amount was Rs.4,00,000/-. The compensation awarded is Rs.5,00,000/- which has already been deposited by the appellant and withdrawn by the respondent.

9. We find that the issue is squarely covered by the law laid down in Meters and Instruments (Supra).

10. We therefore direct the appellant to deposit an additional amount of Rs.3,00,000/- i.e. in total Rs.8,00,000/-. The amount of Rs.3,00,000/- be deposited in the Trial Court within a period of three weeks from today. On such deposit, the respondents will be entitled to

withdraw the same. Upon the amount being deposited as above, the conviction of the appellant shall stand quashed and set aside.

11. The criminal appeal stands allowed, to the extent indicated above.

.....J.  
(B.R. GAVAI)

.....J.  
(SANDEEP MEHTA)

NEW DELHI;  
February 13, 2024

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No(s). 8248/2023

(Arising out of impugned final judgment and order dated 25-04-2023 in CRL.R.A. No.162/2022 passed by the High Court Of Judicature At Bombay At Aurangabad)

MANOJ

Petitioner(s)

VERSUS

RAJKUMAR GANPATI MANUDHANE

(SINCE DECEASED THROUGH HIS LEGAL HEIRS) & ANR. Respondent(s)

(FOR ADMISSION and I.R. and IA No.104795/2023-EXEMPTION FROM SURRENDERING WITHIN TIME )

Date : 13-02-2024 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.R. GAVAI

HON'BLE MR. JUSTICE SANDEEP MEHTA

For Petitioner(s) Mr. Sudhanshu S. Choudhari, Adv.  
Mr. Vatsalya Vigya, AOR

For Respondent(s) Mr. Nishant Ramakantrao Katneshwarkar, AOR

Mr. Samrat Krishnarao Shinde, Adv.

Mr. Siddharth Dharmadhikari, Adv.

Mr. Aaditya Aniruddha Pande, AOR

Mr. Bharat Bagla, Adv.

Mr. Sourav Singh, Adv.

Mr. Aditya Krishna, Adv.

Ms. Preet S. Phanse, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

1. Leave granted.
2. Heard learned counsel for parties.
3. The appeal stands allowed to the extent indicated in the signed order.

4. Pending application(s) stand disposed of.

(RASHMI DHYANI PANT)

COURT MASTER (SH)

(signed order is placed on the file)

(ANJU KAPOOR)

COURT MASTER (NSH)