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STANNY FELIX PINTO

v.

M/S. JANGID BUILDERS PVT. LTD. AND ANR.

JANUARY 15, 2001

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[K.T. THOMAS AND R.P. SETHI, JJ.]

*Negotiable Instruments Act, 1881 : Section 138.*

C *Conviction under Section 138—Imposition of Sentence of imprisonment and fine—Suspension of sentence by High Court—While granting suspension of sentence Court directed that part of fine shall be remitted in Court within a reasonable time—Petition against said direction—Held direction given was advisable and in the interest of justice—Held direction was not unjust—Held impugned order calls for no interference.*

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CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 86 of 2001.

From the Judgment and Order dated 31.08.2000 in CRL. RA 238/2000 of the High Court of Bombay.

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Shivaji M. Jadhav for the appearing parties.

The following Judgment of the Court was delivered :

Leave granted.

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When a person was convicted under Sec. 138 of the Negotiable Instruments Act and sentenced to imprisonment and fine he moved the superior court for suspension of the sentence. The High Court while entertaining his revision granted suspension of the sentence by imposing a condition that part of the fine shall be remitted in court within a specified time.

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It is against the said direction that this petition has been filed. In our view the High Court has done it correctly and in the interest of justice. We feel that while suspending the sentence for the offence under Sec. 138 of the Negotiable Instruments Act it is advisable that the Court imposes a condition that the fine part is remitted within a certain period. If the fine amount is heavy, the Court can direct atleast a portion thereof to be remitted as the convicted person wants the sentence to be suspended during the pendency

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of the appeal. In this case the grievance of the appellant is that he is required by the High Court to remit a huge amount of Rupees four lacs as a condition to suspend the sentence. When considering the total amount of fine imposed by the trial court (twenty lacs of Rupees) there is nothing unjust or unconscionable in imposing such a condition. Hence, there is no need to interfere with the impugned order. As such no notice need be issued to the respondent. Appeal is accordingly dismissed. A B

T.N.A.

Appeal dismissed.