

**IN THE HIGH COURT OF HIMACHAL PRADESH AT
SHIMLA**

Cr.MMO No.219 of 2012-G.
Date of decision: 31.12.2012

Sh. Rakesh Kumar Sharma S/o Sh. Jiya Ram Sharma, Junior Engineer Office of City Electrical, HPSEB, Divisional Store, Old Bus Stand, Shimla, Tehsil and District Shimla, H.P.

..Petitioner.

Versus

1. Ms. Milan Tanwar D/o Sh. Ramesh Tanwar, R/o EM Villa Estate, Chhota Shimla, Tehsil and District Shimla, H.P.
2. State of H.P.

..Respondents.

Petition under Section 482 of the
Code of Criminal Procedure.

Coram

The Hon'ble Mr. Justice V.K. Sharma, J.

¹ Whether approved for reporting? No.

For the petitioner:	Mr. Rajeev Sood, Advocate.
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For the respondents:	Mr. P.M. Negi, Deputy Advocate General, for respondent No.2.
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V.K. Sharma, J. *(Oral)*.

Heard.

2. In the facts and circumstances of the case and keeping in view the nature of the prayer made by the petitioner in the present petition, notice need not be issued to respondent No.1.

3. Consequent upon a complaint under Section 138 of

¹ *Whether reporters of Local Papers may be allowed to see the judgment? No .*

the Negotiable Instruments Act, 1881, having been filed against the petitioner by respondent No.1, he has been convicted and sentenced to undergo simple imprisonment for one year and to pay compensation of ₹4,25,000/- (four lac twenty five thousand) to the complainant (respondent No.1), vide judgment/order dated 23.04.2012/02.05.2012, passed by the learned Judicial Magistrate 1st Class, Court No.(3), Shimla, H.P. Being aggrieved, he has preferred an appeal and the same is pending in the Court of the learned Sessions Judge, Shimla. While admitting the appeal, the learned Sessions Judge has been pleased to stay execution of the substantive sentence imposed upon the petitioner, as aforesaid subject to depositing the cheque amount of ₹3,75,000/- (three lac seventy five thousand) and executing personal and surety bonds of ₹50,000/- each to the satisfaction of the learned trial court within one month from the date of order, that is, 30.05.2012, undertaking to abide by the decision in appeal and to appear and receive sentence in case he does not succeed therein. Thus, the aforesaid sum of ₹3,75,000/- was to be deposited and the personal and surety bonds of ₹50,000/- each were to be furnished on or before 29.06.2012. However, the time in this regard was extended by the learned Sessions Judge, vide order dated 14.9.2012, uptill 29.9.2012. The petitioner could not deposit the said sum and furnish the bonds within the extended time and instead approached this Court by way of Cr.MMO No.188 of 2012-G, wherein vide order dated 08.11.2012, a co-ordinate Bench of this Court was pleased to

grant two weeks' further extension with effect from the date of order, that is, 08.11.2012, for complying the aforesaid order dated 30.05.2012, passed by the learned Sessions Judge, Shimla. Thus, the petitioner was to comply the said order on or before 23.11.2012. However, again it was not done and the present petition has been filed by him for further extension.

4. Heard the learned counsel for the petitioner and available records perused.

5. Though, sufficient time has already been granted for depositing the said sum of ₹3,75,000/- and to furnish the bonds, as aforesaid, which was once extended by the learned Sessions Judge and thereafter once by this Court, yet as an extreme case of indulgence and in the interest of justice, the prayer of the petitioner for further extension of time is granted, as last opportunity. Now, let the said sum of ₹3,75,000/- (three lac seventy five thousands) be deposited with the learned trial court on or before 31.01.2013, positively and the requisite personal bond in the sum of ₹50,000/- (fifty thousands), with one surety in the like amount be also furnished within the same time, failing which, the learned trial court shall proceed forthwith to execute the aforesaid order dated 30.05.2012, passed by the learned Sessions Judge, Shimla, in CMP No.58-S/4 of 2012, in Cr. Appeal No.64-S/10 of 2012. Let a copy of this order be sent forthwith to the learned Sessions Judge, Shimla and learned trial court for information and compliance.

6. The petition as also pending application (s), if any, stand disposed of in the above terms.

Copy **Dasti**.

(V.K. Sharma)
Judge

December 31, 2012
(rkv)