

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.3080 OF 2023  
(Arising out of S.L.P.(CrI.) No. 4016 of 2023)

SHANE GEORGE DSOUZA ... APPELLANT(S)

VS.

STATE OF NCT OF DELHI ... RESPONDENT(S)

O R D E R

Leave granted.

Heard the learned counsel appearing for the appellant and the learned senior counsel appearing for the respondent.

First Information Report was filed making allegations of commission of offences under Sections 419, 420 and 120B of the Indian Penal Code and Sections 66C and 66D of the Indian Technology Act, 2000. The allegation of the prosecution is that the present appellant has cheated the complainant and the amount involved is about Rs.37,00,000/- (Rupees thirty seven lakhs). The Sessions Court by the order dated 18<sup>th</sup> January, 2023 granted bail to the appellant subject to the condition of deposit of a Demand Draft in the sum of Rs.10,00,000/- (Rupees ten lakhs) in the name of the

Trial Court. A direction was issued that the Trial Court may release the said amount to the victim. The appellant moved the High Court seeking waiver of the condition of deposit of Rs.10,00,000/- (Rupees ten lakhs). The High Court rejected the said prayer by the impugned order. However, time to deposit the amount was extended.

This Court has repeatedly held that the condition of deposit of such amount cannot be a condition of bail. In this case, the appellant had not volunteered to deposit the sum of Rs.10,00,000/- (Rupees ten lakhs). The direction in the order dated 18<sup>th</sup> January, 2023 is not only of imposing a condition on the appellant of bringing a sum of Rs.10,00,000/- (Rupees ten lakhs) to the Trial Court but a permission has been granted to release the amount to the victim. It is a settled law that criminal proceedings cannot be converted into recovery proceedings.

Hence, in the facts of the case, there was no justification for imposing the condition of deposit of Rs.10,00,000/- (Rupees ten lakhs). Accordingly, the appeal must succeed and we set aside clause (a) of the operative part of the order dated 18<sup>th</sup> January, 2023 passed by the Additional Sessions Judge-05, New Delhi District, Patiala House Courts, New Delhi. The rest of the conditions shall remain as it is.

The appeal is accordingly allowed.

.....J.  
(ABHAY S.OKA)

.....J.  
(PANKAJ MITHAL)

NEW DELHI;  
October 04, 2023.

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 (Cr1.) No(s). 4016/2023

(Arising out of impugned final judgment and order dated 24-02-2023 in CRLMC No. 1347/2023 passed by the High Court of Delhi at New Delhi)

SHANE GEORGE DSOUZA

Petitioner(s)

VERSUS

STATE OF NCT OF DELHI

Respondent(s)

(IA No. 63330/2023 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 04-10-2023 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA  
HON'BLE MR. JUSTICE PANKAJ MITHAL

For Petitioner(s)

Mr. Naseer Husain Jafri, Adv.  
Mr. Umair Ahmed, Adv.  
Mr. Mohsin Khan, Adv.  
Mr. Summah Nauman, Adv.  
Mr. Ajay Pal, AOR

For Respondent(s)

Ms. Sonia Mathur, Sr. Adv.  
Mr. Noor Rampal, Adv.  
Mr. Anirudh Bhat, Adv.  
Ms. Bharti Tyagi, Adv.  
Mr. Anuj Srinivas Udupa, Adv.  
Dr. Arun Kumar Yadav, Adv.  
Mr. Shreekant Neelappa Terdal, AOR

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application also stands disposed of.

(ANITA MALHOTRA)  
AR-CUM-PS

(AVGV RAMU)  
COURT MASTER

(Signed order is placed on the file.)