

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION NO. 6 OF 2014

IN

STAMP NUMBER MAIN NO. 1995 OF 2013

SHRI VIKAS GOPI BHAGAT

... Applicant

Versus

SHRI SHIVDAS PEDNEKAR AND ANR.,

... Respondents

Mr. Ashwin D. Bhobe, Advocate for the Applicant.

Coram:- A. R. JOSHI, J.

Date:- 17th July, 2014

P.C.:

Heard rival arguments on this criminal miscellaneous application for leave to appeal challenging the judgment and order of acquittal of the respondent in the matter for the offence punishable under section 138 of the N.I. Act.

2. After hearing the rival submissions and after perusing the impugned judgment and order it appears that the trial court was influenced by the so called alleged evidence placed before the court by way of examining the defence witness DW1. In fact the trial Court misdirected itself to ascertain the possibility or otherwise of the complainant giving cash amount of Rs.4,00,000/- to the respondent/accused on a particular date in the afternoon when allegedly according to the respondent no.1 on that day he was on

duty about 60 kms away from the place where the transaction had taken place. This misdirection of the Court was in the light of the factual position that there was no plea on behalf for respondent no.1 that he had not given the cheque or he did not sign the cheque which was subsequently dishonoured. In the statement under section 313 of Cr.P.C.the respondent/accused came still with a different story that he was coerced and compelled to give the cheque of Rs.4,00,000/- as an undertaking between him and the complainant for securing a job did not materialize. In any event there is an arguable point in the present matter and which is to be dealt with in the appeal. Hence leave is granted to the applicant/original complainant to file appeal. Appeal to be numbered. The appeal is admitted. Process under section 390 of Cr.P.C. to follow. Respondent no.1/accused to be released on bail in the sum of Rs.500/- with bail bonds to be executed before the trial Court.

A. R. JOSHI, J.

ap/-