

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.1506 OF 2013

Sachin s/o Dwarkadas Sabu,
Age-33 years, Occu:Business,
Prop. Shanti Dal & Oil Mill, Latur,
R/o-Latur, Tq. & Dist-Latur.

...APPLICANT
(Orig. Complainant)

VERSUS

Vinayak s/o Keshavrao Shinde,
Age-58 years, Occu:Business,
R/o-Shri Swami Samarth Trading
Company, Mangalwar Peth, Jat,
Tq-Jat, Dist-Sangli.

...RESPONDENT
(Orig. Accused)

...
Mr. A.N. Irpatgire Advocate for Applicant.
...

CORAM: A.I.S. CHEEMA, J.

DATE : 9TH JANUARY, 2015

ORAL ORDER :

1. Heard learned counsel for Applicant.
Respondent though served, is absent. Perused

record.

2. Learned counsel for the Applicant referred to the reasonings recorded by the trial Court in Para 16 of the Judgment, where in the face of admission of the accused that account was frozen by him, the trial Court went on to observe that if that would have been the case, then the endorsement of the Bank would have been "payment stopped by drawer". Learned counsel submits that when the accused admitted that he had got his account frozen, the trial Court had no scope to hold that Section 138 of the Negotiable Instruments Act would not apply.

3. According to the learned counsel for Applicant, it was commercial transaction, in which the cheque was issued and bounced. The reasonings adopted by the trial Court are not maintainable, according to the learned counsel.

4. Looking to the arguments mentioned above and considering the Judgment of the trial Court, there appears to be an arguable case which requires this Court to reconsider and re-appreciate the evidence. As such leave is granted. The Application is allowed. Application be converted into Appeal.

5. Appeal is **Admitted**.

6. Action under Section 390 of Cr.P.C. be taken against Respondent-accused in the trial Court.

7. Paper Book be got prepared.

[A.I.S. CHEEMA, J.]