

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPEAL NO. 645 OF 2003

Sayyed Hussain s/o. Dongarsab,
Age 50 years, Occu. Business,
R/o. Latur, Prop. Bombay Glass
Centre, Latur.

....Appellant.

Versus

Nagnath s/o. Ramrao Patil,
Age 40 years, Occu. Service,
R/o. Jai Jawan Jai Kisan Sakhar
Karkhana Ltd. Nelegaon,
Tq. Chakur, Dist. Latur.

....Respondent.

Mr. M.G. Deokate h/f. Mrs. S.A. Dhumal, Advocate for appellant.
Mr. S.P. Swami h/f. Mr. V.D. Gunale, Advocate for respondent.

CORAM : T.V. NALAWADE, J.
DATED : 14th August, 2015.

JUDGMENT :

1. The appeal is filed against the judgment and order of Chief Judicial Magistrate, Latur delivered in STCC No. 10022/94 in the private complaint filed by the present appellant under section 138 of Negotiable Instruments Act. The trial Court has acquitted the accused/respondent. Both the sides are heard.

2. In the private complaint, it was contended by the

complainant that he had sold some goods like aluminum pipe worth Rs. 2520/- under credit memo and as against that the cheque in question was given by the accused. He has come with such specific case. But, he did not produce relevant record to show that there was such transaction and as against the price of goods, the cheque was issued. For making out the foundation of the case, it was necessary for the complainant to produce the relevant record and only after that the Court can draw presumption under section 118 or 138 of N.I. Act. As the complainant did not produce the record even when he has such specific case, the trial Court has held that the complainant has failed to prove the existing liability on the date of issue of the cheque. This Court finds no reason to interfere in the decision of the trial Court.

3. In the result, the appeal stands dismissed.

[T.V. NALAWADE, J.]

SSC/