

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 5107 OF 2014

Shri Sham Agencies, Dondaicha
Through its Proprietor
Shri Sanjay Shamlal Agrawal,
Age : 46 years, Occu.: Trade,
R/o : Station Area, Dondaicha,
Tal. Shindkheda, Dist. Dhule

.. Applicant
(Orig. Complainant)

Vs.

1] Shri Prabhakar Vithalrao Shinde
Age : Adult, Occu.: Business,
Proprietor : Shriram Krishi
Sewa Kendra,
Below Indira Bank,
In front of Swami Samarth
Temple, Nandurbar,
Taluka & Dist. Nandurbar .. **Orig. Accused**

2] The State of Maharashtra .. Respondents

Mr. A.R. Sayed, Advocate h/f Mr. S.P. Brahme, Advocate for
the applicant

Mr. M.S. Kulkarni, Advocate for respondent no.1

Mr. U.V. Bhogle, A.P.P. for the respondent-State

CORAM : M.T. JOSHI, J.

DATE : 08/12/2015

ORAL ORDER :

Heard both sides.

2. Aggrieved by the acquittal of the respondent no.1 from the offence punishable under section 138 of the Negotiable Instruments Act, the original complainant wants to prefer an appeal and, therefore, the present application for leave to file is filed.

3. Upon hearing both sides, it is gathered that admittedly there were transactions of purchase on credit of the fertilizer bags between the present applicant and the respondent no.1-accused.

4. Reading of the reasons forwarded by the learned Judicial Magistrate First Class, Dondaicha would show that, as to whether the blank cheque was issued as a security towards the repayment of the purchase on credit of the fertilizer bags, or as to whether on the disputed date, the amount was due alongwith the interest and as to whether, the interest could not have been charged, were the issues.

5. Since arguable case is made out, leave to file appeal is hereby granted. Application is accordingly allowed and disposed of.

6. Appeal be registered as per due procedure of law.

7. Upon registration, the appeal stands admitted.

8. Mr. Kulkarni waives notice for the respondent no.1 and learned A.P.P. waives notice for respondent no.2-State upon admission of the appeal.

9. Printing of the paperbook is dispensed with.

10. Action under section 390 of the Code of Criminal Procedure to follow.

11. Learned Judicial Magistrate First Class, Dondaicha to release the present respondent no.1- Prabhakar Vithalrao Shinde on bail, upon his execution of P.R. bond in the amount of Rs.10,000/- (Rs. Ten Thousand) and also upon furnishing surety in the like amount to secure his presence in this Appeal.

12. Hamdast of the present order is granted.

[M.T. JOSHI]
JUDGE

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