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

CRIMINAL APPLICATION NO. 6905 OF 2014

Shreyas s/o. Champalal Phulphagar
(Jain) and Another **....Applicants.**

Versus

The State of Maharashtra and Another **....Respondents.**

Mr. V.I. Thole, Advocate for applicants.
Mrs. R.K. Ladda, APP for State.
Mr. R.V. Gore, Advocate for respondent No. 2.

CORAM : T.V. NALAWADE &
SMT. I.K. JAIN, JJ.
DATED : 26th March, 2015.

ORDER :

1) The proceeding is filed under section 482 of Criminal Procedure Code for the relief of quashing of F.I.R. bearing C.R. No. 298/14 registered in City Chowk Police Station, Aurangabad for the offences punishable under sections 420, 467, 468, 471 and 34 of Indian Penal Code. Both the sides are heard. Shri. R.V. Gore, learned counsel was allowed to argue for complainant.

2) The crime is registered on the basis of report given by one Madanlal Desarda. He runs one electrical shop by name 'Maharashtra Electricals'. Applicant No. 2 Champalal was working in his shop for few years, but he left the job about 2 years prior

to the date of the report. Applicant No. 1 Shreyas is son of applicant No. 2. It is the case of complainant that applicant Nos. 1 and 2 started their business under the name and style as 'Yash Maharashtra Electricals' at Raja Bazar at Aurangabad.

3) It is the case of complainant that he had taken one contract of B.S.N.L., Dombiwali and in respect of work done by him, the company had issued cheque to his concern viz. Maharashtra Electricals bearing No. 056160 dated 31.10.2011. It was for the amount of Rs. 2544/-. It is contended that this cheque was collected by the accused persons and they did the manipulation and added the word 'Yash' to show that it was issued to their business concern 'Yash Maharashtra Electricals' and they encashed the cheque by presenting it in their account. It is contended that another cheque bearing No. 83417 dated 3.1.2012 issued by B.S.N.L. of the amount of Rs. 1,18,985/- was also collected by the accused persons. Thus, it is alleged that the amount of Rs. 1,21,529/-, which was due to the complainant and which was actually paid to the complainant by issuing cheques was collected by the accused persons and the said amount was misappropriated by doing forgery of aforesaid nature.

4) The learned counsel for the applicants submitted that there is the record to show that the applicants were authorized for some time by the complainant to collect the cheques from B.S.N.L. He submitted that in view of such record, it cannot be said that the applicants have committed offence. Even if, it is presumed that the applicants were authorized to collect the cheques, that does not mean that the complainant had authorized the applicants to do the forgery and to encash those cheques by presenting the cheques in the account of the firm of the accused.

5) The learned counsel for the applicants/accused made a strange submission that if at all somebody is deceived, it is B.S.N.L. and not the complainant and so, only B.S.N.L. can take action against the complainant. This submission is not at all acceptable. When cognizable offence is committed and there are allegations of aforesaid nature, it cannot be said that the crime cannot be registered on the basis of report given by present complainant to whom the cheques were issued by B.S.N.L. During arguments, the learned counsel for the applicants admitted that the cheques are encashed by the applicants in the name of their concern. There is record also to that effect. Thus, it cannot be said that the allegations are false and no case is made

out. Relief claimed cannot be given in such a case.

6) In the result, the application stands dismissed.

[SMT. I.K. JAIN, J.] **[T.V. NALAWADE, J.]**

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