

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO.410 OF 2013

The Godavari Sugar Mills Ltd. : Applicant
(Org. Complainant)

Versus

Shri Rama Madhukar Jadhav & Anr. : Respondents
(Resp.No.1-Org. Accused)

Mr. K. K. Jadhav with Mr. J. K. Jadhav for the applicant.

None present for respondent No.1.

Mrs. P. P. Bhosale, Addl. Public Prosecutor for the State.

CORAM : A. R. JOSHI, J.

DATE : 15th July, 2015.

P.C.:

Heard learned counsel for the applicant for leave to file appeal challenging the acquittal of respondent no.1 in the matter of offence punishable under section 138 of the Negotiable Instruments Act. The present applicant (original complainant) is a Sugar Mill and it had given an advance of Rs.1,60,000/- to respondent no.1 for carrying out transportation work by him. Some part of the work was done and as such the remaining amount was to be refunded to the complainant. By way of repayment, the concerned cheque was given by respondent no.1

which was subsequently dishonoured.

2. What weighed with the trial Court was the apparent defence of respondent no.1 that he had completed all work and there was nothing outstanding to be paid back to the complainant and earlier the complainant had obtained blank cheque from respondent no.1 accused. Considering the defence and considering certain admissions given by the witnesses of the complainant, the Court came to the conclusion that the concerned cheque was of more amount than that was due and payable back to the complainant. On this, the learned counsel for the applicant stated that there was in fact an agreement entered into between the parties and various other charges were also to be recovered from respondent no.1. Considering the reasoning given by the trial Court and considering the argument on behalf of the applicant, in the opinion of this Court there involves a debatable issue which is required to be dealt in detail at the final hearing of the appeal, which is required to be admitted.

3. Accordingly, the application for leave is allowed. Appeal is admitted. Call for R & P. Learned APP for respondent no.2 State waives service.

4. Process under section 390 of the Cr.P.C. be initiated against respondent no.1 with a direction to the trial Court to release him on bail in the sum of Rs.500/-.

(A. R. Joshi, J.)