

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 52 OF 2014

Venkatesh R. Dastikopp

..Applicant

v/s.

Mr.Subhash K. Katkar & Anr.

..Respondents

Mr. Sagar Mane for the Applicant.

Mr.J.H.Ramugade, APP for the Respondent/State.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : AUGUST 27, 2015.**

P.C.

1. Heard learned Counsel for the applicant.
2. By this application, the applicant seeks leave to file appeal challenging the judgment and order dated 13.12.2013 in C.C.No.5466 of 2012 whereby the learned JMFC, No.1, Pune, has acquitted the respondent no.1 for offence under Section 138 of the Negotiable Instruments Act.
3. The case of the applicant was that he had come into contact with the respondent no.1 through Zulfeqar Abdul Khadar Kavarey.

Said Zulfeqar had assured to procure job for him in Army as Assistant Food Checking Officer in Grade-3. The respondent no.1 had informed him that he would have to deposit an amount of Rs.3,75,000/- for the purpose of training, and in view of the said statement he had issued two cheques totalling to an amount of Rs.3,65,000/- and cash of Rs.10,000/-. The applicant has stated that subsequently he learnt that the respondent no.1 had cheated several persons on assurance of providing job in the Army. He therefore demanded back the amount of Rs.3,75,000/- from the respondent no.1. The respondent no.1 issued to him cheque dated 28.12.2010 for Rs.3,75,000/-, which when deposited was dishonoured for “insufficient funds”. Statutory notice was issued to the respondent. Despite receipt of said notice, respondent no.1 did not pay the cheque amount. Hence, he filed the complaint under Section 138 of the Negotiable Instruments Act.

4. There is no merit in the contention of the applicant that the amount given to the respondent was towards deposit for the training. The complainant has stated that the cheques ere issued in the name of Zulfeqar Abdul Khadar Kavarey was in any way concerned with

the recruitment process. It is evident that the applicant had paid the said amount to procure a job by illegal means. The said amount paid to perform acts against law cannot be considered as legally enforceable debt. The learned Magistrate has considered this aspect and has assigned justifiable reasons for recording acquittal. The view taken by the learned trial Judge is a possible view. No interference is called for. Leave is refused. The application is accordingly dismissed.

(ANUJA PRABHUDESSAI, J.)