

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

**CRIMINAL APPLICATION NO. 174 OF 2014
AND**

CRIMINAL APPLICATION NO. 175 OF 2014

M/s. Genesis Colours Pvt. Ltd.
& Anr.

.. Applicants

v/s.

Rajiv Ramlabhaya Suri & Anr.

..Respondents

Mr. Ganesh Bhujbal for the Applicants.
Mr.Ajit Anekar i/b. Juris Legal for the Respondent no.1
Mr.J.H.Ramugade, APP for the State.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : OCTOBER 12, 2015.**

P.C.

1. By these applications the applicants have challenged the order of issuance of process in C.C.Nos. 4443/SS/2009 and 4444/SS/2009, under Section 138 of the Negotiable Instruments Act.
2. The respondent no.1 who is the original complainant had initiated proceedings against the applicants under Section 138 of the Negotiable Instruments Act. By the impugned order dated 8th

January, 2014 the learned Magistrate had issued process against the accused. Aggrieved by the said order, the applicants have filed these applications. Learned Counsel for the applicants submitted that by letter dated 7th May, 2005 the Municipal Corporation of Gr. Mumbai had changed the user of the land from residential to commercial purpose. Subsequently, the parties entered into leave and license agreement dated 2.4.2008. The applicants deposited Rs.50 lakhs as security deposit and issued post dated cheques towards the rent. Learned Counsel for the applicant submits that on 22.8.2009 the BMC has cancelled the change of user with further instructions to restore the same as per the approved plan. The learned Counsel for the applicant submits that the applicants had stopped payment in view of the said letter.

3. I have perused the complaint, and considered the submissions advanced by the learned Counsel for the applicants.

4. The complaint prima facie discloses essential ingredients of the offence. The contentions raised by the applicants cannot be considered in this proceeding under Section 482 of Cr.P.C. It is not in dispute that the substance of accusation has already been

explained and the plea of the applicants has been recorded. In view of the aforesaid circumstances, all the defences raised by the applicants in these proceedings can be conveniently raised before the trial court. Hence, without going into the merits of the case, the applications are dismissed leaving open all the pleas and contentions to be raised before the trial court.

(ANUJA PRABHUDESSAI, J.)