

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.220 OF 2015

Planet M. Retail Ltd. & Ors.

...Applicants

Versus

Milestone Interactive Private Ltd. &
Anr.

.... Respondents

Mr. Janak B. Panke for Applicants.

Mr. D.R. More, APP for Respondent No.2-State.

CORAM:-M.L. TAHALIYANI, J.

DATED : 20th MARCH, 2015.

P.C.

Heard learned Advocate Mr. Panke for Applicants and learned APP for Respondent No.2-State. Admit. By consent taken up forthwith for final hearing.

2. Perused the judgment of this Court in the case of **Amarnath Baijnath Gupta & Anr. Vs. M/s. Mohini Organics Pvt. Ltd. & Anr.**¹ Perused the affidavit of one of the Directors of Respondent No.1 (original complainant) in lieu of the verification statement under section 200 of Criminal Procedure Code. In my view the verification statement recorded in the manner by the learned

1 Reported in 2009 ALL MR (Cri) 184

Magistrate does not violate the order of this Court. This Court had criticised recording of verification in a preconceived proforma and not the verification taken on oath in the form of affidavit. As such, I do not find substance in the arguments of learned Advocate for the Applicants that verification statement was not recorded in accordance with the law.

3. As far as another issue raised by learned Advocate for the Applicants with regard to the enquiry to be conducted under section 202 of Cr.P.C. is concerned, it is submitted that two of the Applicants i.e. Applicant Nos. 2 and 3 (accused Nos. 2 and 3) are living beyond the territorial jurisdiction of the Court of Metropolitan Magistrate, 44th Court, Andheri. It is contended that therefore, enquiry under section 202 of Cr.P.C. was necessary. In this regard this Court has taken consistent view that in the cases under section 138 of Negotiable Instruments Act the enquiry under section 202 of Cr.P.C. may not be treated as mandatory unless there is an exceptional case. I, therefore, do not find any substance in the application.

4. The application is dismissed summarily.

(JUDGE)