

hvn

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 539 OF 2015**

Hema Bipin Shah ... Applicant

Versus

The State of Maharashtra ... Respondent

**Mr. Satyavrat Joshi for the applicant.
Smt. V.S. Mhaispurkar, A.P.P. for State.**

**CORAM : M.L. TAHALIYANI, J.
DATED : JUNE 26, 2015**

P.C.

Heard learned counsel for the applicant and learned A.P.P. for the State.

2. Issue raised before the court in the present application is that there are no sufficient averments against the applicant in the complaint under section 138 of the Negotiable Instruments Act. I have gone through the complaint. Para 2 and 3 of the complaint read as under :

“2. Accused no. 1 is a partnership firm and accused nos. 2 & 3 are partners and responsible persons of No. 1 of accused and are in-charge of their business.

3. Accused have contacted complainant and stated that they are developer, builder. Accused have taken loan of Rs.6,00,000/- by cheque dated 01.06.2010 bearing No. 139010 of Mahesh Sahakari Bank Ltd., Market Yard Branch, Pune and Rs.28,50,000/- by cash thereafter total amounting to Rs.34,50,000/- for their urgent business need from

complainant. Accused have executed a document for the same in favour of complainant.”

3. It is thus clear that the applicant who is accused no. 3 was partner of the partnership firm. The complainant/respondent no. 2 has alleged that the accused have contacted the complainant and represented themselves to be developer and builder and took loan of Rs.34,50,000/- for the urgent needs of the business. Though the cheque issued in discharge of the liability has not been signed by the applicant, she cannot run away from the liability of facing the trial in as much as she is alleged to have accompanied the accused no.2/her husband for taking the loan from respondent no.2 . It prima facie shows that the applicant was responsible for the conduct of the business of the company.

4. In my view, there is no substance in the application. Application is summarily dismissed.

(JUDGE)