

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

CRIMINAL APPLICATION NO.813 OF 2015

Jasmine Bhogilal Shah

...Applicant

Versus

The State of Maharashtra & Anr.

...Respondent

.....

Mr. Rishi Bhuta for the Applicant.

Mr. Mukesh Modi for Respondent No.2.

Mr. R.V. More, APP for Respondent No.1 – State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE :5th OCTOBER, 2015.

P. C. :

Rule. By consent of both the parties, rule returnable forthwith.

2. At the outset the learned counsel for the Applicant-accused seeks leave to amend the cause title so as to give proper designation of the Respondent No.2 as Managing Director of Sony Mony Electronics. Leave is granted. Amendment to be carried out forthwith.

3. By this application the Applicant-accused herein has challenged the judgment and order passed in C.C. No.2/SS/2006 on

the file of Additional Chief Metropolitan Magistrate, 47th Court at Esplanade. The grievance of the Applicant is that the learned Advocate Mr. Modi is not authorised to represent the complainant. The learned Magistrate, by order dated 20th July, 2015, dealt with the said objection by observing that the question whether the Advocate Mr. Modi is authorised to conduct the trial on behalf of the complainant or not will be kept open and decided during the final course of trial. Aggrieved by the same the Applicant- accused has preferred this application under section 482 of the Criminal Procedure Code.

4. Heard the learned counsel for the Applicant-accused and the learned counsel for the Respondent No.2. The Respondent No.2-complainant, Managing Director of Sony Mony Electronics had filed complaint under section 138 of the Negotiable Instruments Act. The Respondent No.2, the sole complainant had signed the Vakalatnama in favour of Advocate Mr. Modi. Hence, there was sufficient authorisation in favour of the learned Advocate Mr. Modi. The learned counsel Mr. Modi for the Respondent No.2, under instructions, has made a statement that he has been representing the Respondent No.2-complainant since the year 2007. Under the circumstances, the objections were frivolous and did not deserve to be kept open or

pending for decision at the final hearing.

5. In the light of the above facts and circumstances and with consent of counsel for both the parties, the application is allowed to the extent of setting aside the impugned order dated 20th July, 2015. The impugned order is set aside. It is submitted by the learned counsel for the Applicant-accused that the matter is fixed for defence evidence on 17.10.2015. Both the parties are directed to appear before the Additional Chief Metropolitan Magistrate, 47th Court, Esplanade, Mumbai on that **17.10.2015**.

(ANUJA PRABHUDESSAI, J.)

CERTIFICATE

Certified to be true and correct copy of the original signed
Judgment /order.