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

**CRIMINAL APPLICATION NO. 1236 OF 2013
WITH
CRIMINAL APPLICATION NO. 1237 OF 2013
WITH
CRIMINAL APPLICATION NO. 1238 OF 2013
WITH
CRIMINAL APPLICATION NO. 1245 OF 2013**

Shri Chirag Khushalchand Dedhia and Ors. ... Applicants

Versus

The State of Maharashtra and Ors. ... Respondents

Mr. P.A. Sarwankar i/by M/s. Sarwankar & Co. for the applicants.

Mr. Shakil Ahmed for respondent no. 2.

Mr. V.B.K. Deshmukh, A.P.P. for the State.

**CORAM : M.L. TAHALIYANI, J.
DATED : APRIL 23, 2015**

P.C.

Leave to amend is granted to the applicant to add new case numbers in prayer clause of the cases in the Court of Magistrate, Bhoiwada, Dadar.

2. Admit. Heard finally.

3. The applicants in all the applications are facing trial for the offence

punishable under sections 138 read with section 141 of the Negotiable Instruments Act. The applicant nos. 1, 2 and 3 are directors of accused No. 1 company Chirag Khulshand Dedhia. The contention of the applicants is that the Malegaon Court was under an obligation to initiate enquiry under section 202 of the Code of Criminal Procedures as the applicants are staying out of the territorial jurisdiction of the Malegaon Court. At this stage, it is brought to my notice that the complaints have been transferred to Bhoiwada Court of Magistrate, at Dadar, Mumbai in view of the judgment of the Supreme Court in the matter of **Dashrath Rupsingh Rathod Versus State of Maharashtra, (2014) 9 S.C.C. 129**. As such this issue does not require to be considered in the present applications.

4. The next issue raised by the learned counsel for the applicants is that there are no averments as to in what manner and to what extent the applicants were engaged in day to day business of the company and they were responsible to the company in the conduct of business of the company.

5. I have gone through para 2 of the complaint which deals with the role of the applicant nos. 1, 2 and 3. However, it is not mentioned in para 2, which is admitted position, that applicant nos. 2 and 3 are father and wife

respectively of the applicant no. 1. It is also an admitted position that the applicant no.1 had signed all the cheques in question. Therefore, in my opinion, the applicant no. 1 cannot escape the liability of facing the trial. As far as applicant nos. 2 and 3 are concerned, bare allegations are made that they were taking part in day to day affairs of the company. There is nothing more than that in para no. 2 of the complaint. In my opinion, averments made against the applicant nos.2 and 3 were not sufficient to issue process with help of section 141 of the Negotiable Instruments Act. In view thereof, the proceedings pending against the applicants in the court of Metropolitan Magistrate, Bhoiwada (Case Nos. 1248/SS/2014, 1249/SS/2014, 1250/SS/2014, 1251/SS/2014) which were earlier pending in the court of Judicial Magistrate, First Class Malegaon vide criminal Case Nos. 1520/2012, 1521 of 2012, 1522 of 2012, 1523 of 2012 shall stand quashed. Case to proceed against company accused no. 1 and the applicant No. 1/accused no. 2.

Applications stand disposed of.

(JUDGE)