

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.648 OF 2016

Superfine Metals Pvt. Ltd.,
Through Director
Siddharth Satish Katariya,
Age-37 years, occu:Industrialist,
R/o-Pratibha, 1267, Dalmandai,
Ahmednagar.

...APPLICANT

VERSUS

- 1) Ravi Panjwani,
Proprietor Euro Architectural
Concepts Pvt. Ltd.,
Age-Major, Occu:Business,
R/o-D-362, TTC, Industrial Area,
MIDC, Kukshet village, Juinagar East,
Navi Mumbai - 400705,

- 2) State of Maharashtra

...RESPONDENTS

...
Mr.A.B. Jagtap Advocate h/f. Mr. V.D. Sapkal
Advocate for Applicant.
Mr.S.M. Ganachari, A.P.P. for Respondent No.2.
...

CORAM: A.I.S. CHEEMA, J.

DATE : 26TH APRIL, 2016

ORDER :

1. Heard learned counsel for the Applicant - original complainant. This Application has been filed against acquittal of Respondent No.1. According to learned counsel, the trial Court has wrongly acquitted Respondent No.1 - accused. Respondent No.1 had business dealings with the Applicant and for those dealings, cheque was issued which bounced and hence the prosecution was brought.

2. According to the learned counsel, the Respondent No.1 - accused was managing the affairs of the company - Euro Architectural Concepts Pvt. Ltd. and dealings of the complainant were with him and so he was made accused treating him as proprietor and according to counsel, the trial Court wrongly held that the company was liable to be made accused and the prosecution could not stand against Respondent No.1 Ravi Panjwani.

3. I have gone through the Judgment of the trial Court. There is copy of notice Exhibit 33 dated 24th May 2010, by which notice was issued to Respondent No.1 Ravi Panjwani. The address mentioned is:

"To
Ravi Panjawani,
Euro Architectural Concepts Pvt. Ltd.
D 362 TTC Industrial Area MIDC
Kukshet Villave Juinagar East
Navi Mumbai 400705"

Thus, the Notice was to the individual.

. The copy of complaint in the trial Court has been filed at Exhibit A, in which the accused was arrayed as a "Proprietor" of Euro Architectural Concepts Pvt. Ltd. In Para 2 of the complaint, however, it was clearly mentioned by the complainant that the accused is a registered company and "Mr. Ravi Panjwani looks after the main business and transactions of accused company

who had approached personally to the company to purchase the material products." Thus, although the transaction was with the company, Ravi Panjwani was individually prosecuted. The trial Court referred to the Judgments in this regard and provisions of Section 141 of the Negotiable Instruments Act, 1881 ("N.I. Act"), which provides that if the person committing an offence under section 138 is a company, every person who, at the time the offence was committed, was incharge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty. The trial Court rightly observed that if the transaction was with the company, the company has not been prosecuted and thus the complaint could not succeed. The trial Court observed that it was the bounden duty of the complainant to prosecute the company as one of the accused in the present case.

4. Looking to the reasons recorded by the

trial Court, it does not appear that case is made out for entertaining this Application against order of acquittal. No ground is made out to grant leave. The Application is rejected.

[A.I.S.CHEEMA, J.]

asb/APR16