

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

Criminal Application No. 52 of 2004
(In Criminal Writ Petition No. 522 of 1998)

District : Ahmednagar

M/s. Videocon International Limited,
a Company having its Branch office at
Gangapur Gin Compound, Station Road,
Ahmednagar, through its
power of attorney holder
Mr. Balasaheb Trimbak Patil,
Residing at Pipe Line Road,
Ahmednagar.

.. Applicant.

versus

1. M/s. Top Line Shoes Limited,
a Company having its registered
office at 229, Jambusar Road,
Village Dabhasa, Taluka Parde,
Dist. Vadodara (Gujarat), and
Also at : 66, Kakad Industrial
Estate, L.T. Road, Mahim,
Mumbai - 16.

2. Mr. Hosad Manjappaiah Guru
Murthy s/o. Hosad Manjappaiah,
Age : Major,
Occupation : Business Executive,
Residing at 66,
Kakad Industrial Estate,
L.T. Road, Mahim, Mumbai - 16.

3. The State of Maharashtra.

.. Respondents.

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Mr. A.S. Bajaj, Advocate, for the applicant.

Mr. Sunil V. Warad, Advocate, for respondent nos.1 and 2.

Mr. P.N. Kutti, Addl. Public Prosecutor, for respondent no.3.

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CORAM : Z.A. HAQ, J.

DATE : 30TH NOVEMBER 2016

ORAL JUDGMENT :

Heard learned Advocates for the respective parties.

02. The applicant had filed a complaint under Section 138 of Negotiable Instruments Act, 1881 against the non-applicant nos. 01 and 02. The learned Magistrate directed issuance of process which order was challenged by the non-applicant nos.01 and 02 before this court in Criminal Writ Petition No. 522 of 1998. In the Writ Petition, the non-applicants stated that the cheque, on the basis of which complaint was filed by the applicant, was blank when it was given to the applicant and except signature nothing was written on it. This averment was made on solemn affirmation. The Writ Petition was disposed as withdrawn.

The trial proceeded and in the evidence of non-

applicant no.02, he admitted that the cheque which was given to the applicant was not blank.

In these facts, the applicant has filed this application under Section 340 of the Code of Criminal Procedure, 1973 contending that the non-applicant nos.01 and 02 are liable for prosecution and conviction for offence punishable under Section 191 of Indian Penal Code.

03. The emphasis of learned Advocate for the applicant is on the pleadings / averments in the petition and the admission given by the non-applicant no.02 in evidence. However, the learned Advocate for the applicant has not been able to point out that this Court relied on the alleged false statement made in the petition and passed any orders which affected the course of justice.

04. The learned Advocate for the non-applicant nos.01 and 02 has submitted that the non-applicant nos.01 and 02 are acquitted of the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 by the Sessions Court in Criminal Appeal No. 50/2003. It is further submitted by the learned Advocate for the non-applicant nos.01 and 02 that Special Civil Suit No. 84/1998 which was filed by the applicant praying for decree for recovery of the amount as reflected in the cheque in question, is

dismissed by the judgment given on 11th June, 2009 by Civil Judge (Senior Division), Ahmednagar.

05. In the above facts, I am not inclined to show any indulgence in the matter. The Criminal Application is **dismissed**. In the circumstances, the parties to bear their own costs.

(Z.A. HAQ)
JUDGE

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