

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

**CRIMINAL APPLICATION NO. 5491 OF 2015**

Lavkumar Madanlal Maheshwari

**APPLICANT**

**V E R S U S**

The State of Maharashtra & Another

**RESPONDENTS**

*Mr. Amit A. Yadkikar, Advocate for the Applicant*  
*Mr. S.D. Ghayal, A.P.P. for Respondent No.1 – State*  
*Mr. S.B. Joshi, Advocate for Respondent No.2*

**CORAM : A.V. NIRGUDE &  
INDIRA K. JAIN, JJ.**

DATE : 29<sup>th</sup> JANUARY, 2016

**PER COURT :**

1. Accused in Crime No. 107 of 2015 of Chandanzira Police Station, Jalna, filed this application for quashing of the complaint.

2. Respondent no.2 is the complainant, who alleged that he supplied certain goods to the Applicant/Accused. The goods reached the Applicant/Accused on 4<sup>th</sup> July, 2015, but the price of goods was not paid to him. Therefore, he made demand, but in-vain. Ultimately rather belatedly the Applicant/Accused started telling that the goods were of inferior quality. The complainant further alleged that when they approached the Applicant/Accused at Ahmedabad, they were told that they would neither

be paid the price of the goods and would also not returned the goods. Because of this refusal to return the goods, according to the complainant, the offence was committed. If the price as well as the goods were not returned, at the most the complainant could have filed a Civil Suit for recovery of price of the goods.

3. By no stretch of imagination, the alleged act, on the part of the Applicant/Accused, would amount to offence of criminal misappropriation or cheating. The complainant sold the goods, therefore, it was not an act of entrustment. Refusal to pay price would at the most amount to breach of contract. Once the goods were sold, there was no reason for complainant to demand and return of the goods. Once the goods reached the destination, the sale was complete. The property of goods stood transferred to the purchaser. So, if the goods were not returned back, it would not amount to criminal breach of trust or misappropriation. No offence is seen to have committed in this case. The dispute is purely of civil nature. Therefore, the application is allowed in terms of prayer clause 'B'.

**( INDIRA K. JAIN, J. )**

**( A.V. NIRGUDE, J. )**