

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 5590 OF 2015

M/s Ajeet Seeds Ltd. .. Applicant

Vs.

Mr. K. Gopala Krishna .. Respondent

Mr. Sunil B. Kakde, Advocate for the applicant

CORAM : M.T. JOSHI, J.

DATE : 15/01/2016

ORAL ORDER :

1. Heard Mr. Kakde.
2. Perused the reasoning forwarded by the learned Judicial Magistrate First Class, Aurangabad while acquitting the respondent from the offence punishable under section 138 of the Negotiable Instruments Act.
3. Admitted facts are that the present applicant-appellant used to deliver on credit the goods. In such circumstances, it is the case of the appellant-

applicant that an amount of Rs.2,39,126=95 remained due as on 04/04/2007. Therefore, the respondent issued the cheque in question, however, the cheque was dishonoured as the funds were insufficient. Thereafter, upon issuing statutory notice and service of the same, since the amount was not paid, the complaint came to be filed.

4. The plea of the respondent was that in-fact, at the time of entering into the transactions in the beginning, a blank cheque was obtained as a security, however, when the dispute arose between the parties, the said cheque is misused by putting the figure and the date over the same by the complainant.

5. During cross-examination, the complainant's witness Mr. Manohar admitted that in-fact from 06/04/2006 till 21/01/2007, there was no transaction between the parties. Further as on 31/3/2006, only an amount of Rs.70,759=95 was due.

6. In the circumstances, the learned Judicial Magistrate First Class has observed that it was not explained as to how the figure of Rs.2,39,126=95 is put

in the cheque. Therefore, finding no legally enforceable liability, the complaint was dismissed.

7. Upon considering the admitted statements of the complainant's only witness, I do not find any perversity in the reasoning forwarded by the learned Judicial Magistrate First Class. Grant of leave to file appeal therefore would be an exercise in futility. The Application is therefore dismissed. Leave to file Appeal is hereby refused.

[M.T. JOSHI]
JUDGE

arp/