

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 90 of 2014

R.K.Synthetics & Fibres (P) Ltd.	...	Applicant
vs.		
M/s. Regal Crimptex Ltd. & Ors.	...	Respondents

Mr. Shirish Gupte, Senior Counsel i/b. Ms. Racheeta R. Dhuru, for the applicant.

Mr. Vijay Pradhan i/b. Mr. Rumi H. Mirza for respondent Nos. 1 to 4.

Ms. A.A.Mane, APP, for the State.

CORAM: SMT. SADHANA S.JADHAV, J.
DATE : 7th April, 2016.

P.C.

Heard the learned Senior Counsel for the applicant and the learned counsel for the respondents.

2. This is an application seeking leave to appeal challenging the judgment and order dated 1.1.2015 passed by the Judicial Magistrate, First Class at Thane in Criminal Case No.2556 of 2003 thereby acquitting the respondents of the offence punishable under Section 138 read with Section

141 of the Negotiable Instruments Act.

3. The complainant/applicant is a company. One Manoj had filed complaint on behalf of the applicant against the accused herein, more particularly accused Nos. 2 and 3 alleging therein that during the period 1996 to 2000, the complainant herein had advanced financial assistance in various sums to the accused. That the cheque was extended by Shri Kulbushan Sheth, the Accountant of accused No.1. One of such cheques bearing No.690031 drawn on Vijaya Bank Overseas Branch for Rs.40,00,000/- was encashed. The complainant had executed a letter dated 6.1.2001 certifying therein that there were no outstanding dues as on 6.4.2001.

4. Upon perusal of the evidence adduced by the complainant, the learned Magistrate has specifically observed that in the eventuality that the disputed cheque was dishonoured, there is no reason for the complainant to issue 'no dues certificate' in favour of the accused. The learned Magistrate has rightly arrived at a conclusion that there was no outstanding liability towards the cheque which was issued and it was further held that the accused has rebutted the presumption drawn under Section 138 of the

Negotiable Instruments Act by demonstrating before the Court that the cheque was not issued towards the discharge of any liability. The learned Magistrate has assigned justifiable reasons for recording the findings in favour of the accused. Hence, the findings recorded by the learned Magistrate do not call for any interference. Hence, the application seeking leave to appeal stands dismissed with no order as to costs.

Application stands disposed of.

(SMT.SADHANA S.JADHAV, J.)