

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 2646 OF 2015

Mr. V.N. Gupta, Director and Others
V/S.

.....Petitioner

Mr. Ramgopal Gulabchand Somani

.....Respondent

* * * * *

Ms. Smita Dandige, Advocate for the petitioner.

Mr. Sandeep Karnik, Advocate for respondent no.1.

Mr. Deepak Thakare, APP for State, respondent no.2.

Coram :- Smt. R.P. SondurBaldota, J.

10th February, 2016.

P.C. :-

1). This petition is directed against the order dated 22nd December, 2014 by which the trial Court directed that, all the accused in C.C. No. 135/SW/2010 shall face the trial for the offence punishable under Section 420, 120B read with Section 34 Indian Penal Code. Accused no.1, is a Private Limited Company and accused nos.2 to 6 are its Directors. After filing of the complaint, process was issued and

thereafter evidence before charge was led by examining two witnesses. At that time, the applicants and the other accused did not cross-examine the two witnesses. They opted to cross-examine them after the charge. On the basis of the evidence and the allegations made in the complaint, the trial Court concluded that charge is required to be framed for the offences punishable under Section 420, 120B and directed that all the accused shall face trial of the same.

2). The complaint of respondent no.1 is that, accused nos.2 to 6 have induced him to invest a sum of Rs.8,00,000/- in accused no.1, Company by painting a rosy picture of good returns out of the investment. They had executed three bills of exchange dated 15th October, 2007 aggregating to the sum of Rs.8,00,000/-. Thereafter, the respondent neither received the amount of Rs.8,00,000/- nor the returns thereon. He had issued a notice to the petitioners and the other accused demanded payment under the three bills of exchange. The accused neither replied the notice nor complied with the requisition contained therein. In these facts of the case and in the face of unrebuttal evidence of the witnesses, the Courts below have held that the evidence placed on record is sufficient to infer that the accused have cheated respondent no.1. Ms. Dandige, learned Advocate for the petitioners, seeks to submit that the charge against the petitioners is groundless as

the verification statement of respondent no.1 and the evidence of his witness do not attribute any specific role to the petitioners. Similarly, bills of exchange had been executed only by original accused no.2 who has not joined the petitioners herein to challenge the order. Therefore, according to her it would be difficult to connect the petitioners to the offence alleged.

3). Since, the evidence of the complainant and the witnesses in whose presence the entire transaction of loan of Rs.8,00,000/- from the respondent to all the accused persons had taken place has gone un rebutted, the only stage at which the petitioners alongwith the other accused persons can establish that the evidence is not good is only at the trial in the proceedings. As such, there is no infirmity whatsoever in the order. Hence, the petition is dismissed.

(SMT. R.P. SONDURBALDOTA, J)