

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4520 OF 2017
(Satish Onkar Vase Vs. Nalini Punamchand Joshi)

Mr.Milind Patil, Advocate for the petitioner.
Mr.S.R.Choukidar h/f Mr.I.D.Maniyar and Mr.V.V.Jahagirdar, Advocate
for the respondent.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 29/08/2017

PER COURT :

1. The petitioner is aggrieved by the impugned order dated 17/11/2016 by which the Trial Court has rejected application Exh.25 filed by the petitioners/defendants and has refused to stay RCS No.890/2015.

2. I have considered the strenuous submissions of the learned Advocates for the respective sides and have gone through the petition paper book with their assistance.

3. The petitioners contend that the pleadings in RCS No.890/2015 and in SCC No.6371/2015 and 6372/2015 are identical and the reliefs sought by the respondent/plaintiff are also identical. Reliance is placed upon the judgment of this Court in the matter of Arvind Kalidas

Wadodkar Vs. Ramdas Devidas Joshi (1996 CJ (Bom.) 36] contending that if the defence is to be opened in civil proceedings, the criminal proceedings are likely to be affected.

4. It clearly appears from the two proceedings i.e. RCS No.890/2015 and the two summary criminal cases that the prayers put forth are totally different and distinct. In the civil proceedings, the plaintiff has sought the settlement of accounts and an amount by way of her share of the profits. In the said proceedings, the issue of dishonoured cheques is neither pressed nor any relief is sought through the prayers.

5. In so far as the criminal cases are concerned, specific prayers put forth are with regard to awarding punishment to the accused and granting compensation owing to the dishonoured cheques.

6. The Trial Court has concluded that both these cases are total different and the prayers are different. I do not find that the impugned order could be termed as being perverse or erroneous. The criminal cases are squarely in relation to the dishonoring of cheques while the civil proceeding is for the settlement of the accounts.

7. In the Arvind Kalidas case (supra) cited by the petitioners, the proceedings were with regard to defamation and the civil proceeding was also concerning the issue of defamation. The civil proceedings were thus pitted against the criminal proceedings wherein Section 500 of the IPC was invoked. It is in these set of facts that this Court concluded that the defence of the petitioners would be opened in the civil proceedings and that would impact the criminal proceedings.

8. Considering the above, this petition, being devoid of merit, is therefore dismissed.

(Ravindra V.Ghuge, J.)