

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

5 CRIMINAL APPLICATION NO. 1198 OF 2016

AKASH S/O. KISANRAO SALVE
VERSUS
SURESH LAXMAN BORDE AND ANR

...
Advocate for Applicant : Mr. Amol Gawali h/f Mr. Punit S. Mehta
APP for Respondents: Mr. B.A. Shinde

CORAM : K.K. SONAWANE, J.

DATE : 19TH JUNE, 2017.

PER COURT:

1] Heard learned counsel for the both sides. Perused the findings expressed by the learned trial court.

2] There are allegations about the money transaction in between the applicant and respondent No.1. According to applicant, in view of the cordial relations in between them, he has given Rs. 1,68,840/- by way of hand-loan to the accused. But, he did not repay the same within the stipulated period as per the terms. Thereafter, the accused issued respective cheques for discharging his monetary liability. However, the cheques were dishonored for lack of sufficient funds. Therefore, the applicant taking recourse of Section 138 of the Negotiable Instruments Act filed a private complaint before the learned Magistrate for penal action against the respondent No.1.

2] According to respondent No.1, he was partner in the Real Estate business but they sustained losses in the transactions. They were required to pay Rs. 1 Lacs to the owner of the property. The respondent No.1 has delivered blank signed cheques in the custody of the applicant and the applicant has misused the same.

3] In view of the nature of subject matter and allegations made against each other by the applicant and respondent No.1 I find that it would be just and proper to examine the ramifications of the allegations and to ascertain the crux of the money transaction in between applicant and respondent No.1. In that view of the matter, I do not find any impediment to grant leave to present an appeal against the judgment and order passed by learned trial court.

4] Learned counsel for the respondent raised objection, but, at this juncture I do not find any substance in the objections raised on behalf of the respondent. In the interest of justice, reasonable opportunity is required to be given to the complainant to put forth his claim for re-assessment and re-appraisal of the evidence adduced before the learned trial court. Hence, leave to file appeal is granted.

5] Registry to take requisite steps for further process. After registration of appeal, same be listed for hearing on merit before this court on 18th July, 2017.

6] Meanwhile, call for R.& P.

[K.K.SONAWANE]
JUDGE.

grt/-