

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

907 CRIMINAL APPLICATION NO.1776 OF 2016

JAICHAND S/O DNYANOBA BHISE
VERSUS
VITHAL S/O SHUBA RATHOD

...

Advocate for Applicants : Natu Sharad V.
Mr. GD Kale, Adv. for Respondent.

CORAM : P.R.BORA, J.

DATE : 15th September, 2017.

PER COURT :

1) Heard learned Counsel for the applicant and learned Counsel for respondent. Perused the impugned judgment.

2) The cheque for the amount of Rs.6,00,000/- was alleged to be issued by the present respondent in favour of the present applicant, which got dishonoured and the applicant, therefore, filed a criminal complaint under Section 138 of The Negotiable Instruments Act. The learned Magistrate has dismissed the complaint, observing that the applicant has

failed to prove that the cheque was given towards any legally enforceable debt.

3) After having perused the impugned judgment, it appears to me that the evidence, as was adduced before the Court, needs to be re-scrutinized. Some of the observations made by the learned Magistrate require re-consideration. I am, therefore, inclined to allow the present application so that the appeal can be heard on merits. Hence, the following order, -

ORDER

i) The Criminal Application is allowed. The appeal be registered in accordance with law;

ii) After registration of the Appeal, issue notice to respondent. Shri Kale, learned Counsel waives service for the respondent. Service complete.

iii) Call R and P, returnable after four weeks.

iv) List the matter for admission
on 13th October, 2017.

(P.R.BORA,J.)

bdv/