

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1) CRI.APPLN.NO NO.3219 OF 2016

10 CRIMINAL APPLICATION NO. 3219 OF 2016

PADMAKAR S/O RAMESH HARABA
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...
Advocate for Applicant : Mr.Andhale Sandip R
APP for Respondent State: Mr. S.P.Tiwari
Advocate for respondent no.2.:Mr. Deshmukh Swapnil A.

...
CORAM : P.R. BORA, J.
Dated: September 25, 2017
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PER COURT :-

1. Heard learned Counsel for the applicant. Perused the impugned judgment.
2. The present applicant had filed a complaint against the respondent under Section 138 of the Negotiable Instruments Act.
3. The applicant has filed present application seeking leave to prefer appeal against the judgment and order dated 29.3.2016 passed by the learned Judicial Magistrate, First Class, Court No.7, Ahmednagar, in S.C.C.No.2154/2009. The applicant had filed the aforesaid criminal case under the provisions of Section 138 of the Negotiable Instruments Act against the present respondent. The complaint has been dismissed by the learned Magistrate on the ground that the complainant has failed to prove that the cheque issued in his favour was bearing the signature of

agp/-

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(2)

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the accused. It was sought to be canvassed by the learned Counsel for the applicant that he has produced on record some other documents and the signature on the said documents and the disputed cheque were matching with each other. It was, therefore, the contention of the applicant that the trial Court has rejected the complaint on erroneous ground.

4. On perusal of the impugned judgment it is revealed that the disputed cheque was dishonoured for the reason that the signature on the cheque differs. It was, thus, evident that the cheque was not dishonoured for the reason that there were insufficient funds in the account of the drawer or for the like reason. In the circumstances, the complaint itself was not liable to be maintained. It is further revealed that though the cheque was dishonoured for the reason that the signature thereon differs, no attempt was made by the complainant to send the said cheque to the Hand Writing Expert and to get it compared with the admitted signatures of the drawer of the cheque. In the circumstances, it does not appear that any error has been committed by the learned Magistrate in dismissing the complaint. Hence, the order:

ORDER

Criminal Application (No.3219 of 2016) is rejected.

(P.R. BORA, J.)

agp/-