

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

5 CRIMINAL APPLICATION NO. 3415 OF 2017

SHYAM S/O. RAMNATHRAO SHINDE
VERSUS
VIVEK S/O. RAMESH DHUMAL AND ANR

...

Advocate for Applicant : Mr. Panale Sachin S.
Mr.SP Tiwari, APP for State;
Mr. Palsikar Vikrant S. For Resp.no.1.

CORAM : P.R.BORA, J.

DATE : 23rd November, 2017.

PER COURT :

1) Heard the learned Counsel appearing for the respective parties. Perused the impugned Judgment. The learned Trial Court has dismissed the complaint filed by the present applicant against the present respondent under Section 138 of the Negotiable Instruments Act, mainly on the ground that, the complainant has failed in proving that the amount, for which the disputed cheques were allegedly issued by the respondent, was legally enforceable debt. On perusal of the evidence on record, it is revealed that there was some transaction between the applicant and the

respondent. There is one stamp paper also bearing signature of the applicant as well as the respondent. Though, the signature on the stamp paper has been denied by the present respondent, and in the notice reply, some different stand has been taken by the respondent, from such evidence it is difficult to reach to any such conclusion that, there was no transaction in between the parties. In the circumstances, the entire evidence will have to be re-scrutinized. I am, therefore, inclined to allow the present application. Hence, the following order.

- i) The Criminal Application is allowed.
- ii) The appeal be registered in accordance with law.
- iii) On registration of the appeal, issue notice to the respondent. Shri Palshikar, learned Counsel waives service for the respondent.
- iv) List the appeal for admission after six weeks.

(P . R . BORA , J .)

bdv/