

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO.231 OF 2015  
(For Leave to Appeal – By Private)**

M/s.Rainbow Iron & Steel ... **Applicant**  
V/s.  
Chevrow Metal Products Pvt. Ltd. & Ors.... **Respondents**

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Ms.Sapra Leena Dungarshi, Advocate for the Applicant.  
Mr.P.H.Gaikwad-Patil, APP for the Respondent No.4/State.  
Mr.Rushikesh H.Salkar i/b. Mr.Dhanuka & Partners, Advocate for  
the Respondent Nos.1 to 3.

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**CORAM : A.M.BADAR J.**

**DATED : 24<sup>th</sup> APRIL 2017.**

**P.C. :**

1            Heard the learned Advocate appearing for the applicant/original complainant. She argued that despite attempt to compromise the matter, respondents are not adhering to the terms of compromise and, therefore, the application needs to be admitted. The learned Advocate appearing for respondent Nos.1 to 3 argued that because of financial crunch it is not possible for respondents to adhere to terms of compromise.

2            I have considered the rival submissions and perused the impugned Judgment and Order passed by the learned trial

Magistrate dismissing the complaint for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, as well as the record made available. It is seen that accused had issued three cheques totalling 1.55 crores. *Prima facie*, it appears that same were issued for discharging legally enforceable debt. Those were dishonoured. *Prima facie*, it is seen that hyper technical view of the matter was taken by the trial Magistrate in dismissing the complaint. Hence, the order:

- (i) Leave, as prayed, is granted.
- (ii) Memo of application for grant of leave be considered as Memo of Appeal.
- (iii) Admit.
- (iv) Notice to respondents.
- (v) The learned Additional Public Prosecutor waives notice for respondent No.4/State.
- (vi) In the meanwhile, action under Section 390 of the Code of Criminal Procedure before the trial Court.

**(A.M.BADAR J.)**