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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 629 OF 2017**

Mrs. Roopal Rajesh Madhani ... Applicant

vs.

Mr. Dharmil Dilip Shah & Ors. ... Respondents

WITH

CRIMINAL APPLICATION NO. 630 OF 2017

Mighty Constructions Pvt. Ltd. & Anr. ... Applicants

vs.

Mr. Dharmil Dilip Shah & Ors. ... Respondents

Mr. Ganesh Sudhir Vidya for the Applicant.

Mr. Jatin Shah for respondent no.1.

Ms. N. S. Jain, APP for the State.

CORAM : A. K. MENON, J.

DATE : 19th JULY, 2017

P.C.:

1. By these Criminal Applications, the applicants seek to challenge a common order dated 18th March, 2017 dismissing the Revision Application Nos. 750 and 751 of 2016 which sought to challenge issue of process dated 18th April, 2016. It is not in dispute that the cheque in question was issued by the Company – accused no.1. The learned Counsel for the applicants has submitted that the present application no. 629 of 2017 is filed by one of the Directors of the Company whereas application no. 630 is filed by the Company and another Director Mr. Rajesh Madhani.

2. The impugned order rejects the applications seeking challenge to the orders dated 18th April, 2016. The impugned order records that prima facie there are sufficient grounds to proceed against all the accused. It is case of the applicants in both these applications that the cheque was issued as security and that the parties have had business relations and large sums of money were involved. The cheque only represents a portion of the larger sums which are involved in this business transaction. The contention of the applicant is that the respondent no. 1 vide email dated 20th October, 2015 copy of which appears at Exhibit-B recorded that there is a long standing amount of Rs. 20 crores that was overdue from the Company and the said amount was arrived at after taking into consideration of adjustments and part payments. The email contained a request from the first respondent addressed to the Director of the Company Mr. Rajesh Madhani to settle dues and commence making payments at the earliest.

3. It is case of the first respondent that cheque was issued pursuant to the said email, whereas applicants are contending that cheque has been issued for security purpose. For finalisation of the settlement a fresh cheque of Rs. 2.50 Crores was offered, however, no progress was made in these negotiations. The fresh cheque was not given and finally the subject cheque was deposited but was dishonoured for reason "Drawers signature differs"

4. In the course of arguments a query was put to the learned Counsel for the applicants as to whether any reply was sent to the email dated 20th October, 2015,

to which learned Counsel for the applicant fairly conceded that no reply was sent at the material time. It appears that the parties probably have various business dealings, but prima facie there is no case made out for interference at this stage given the fact that the cheque was admittedly issued by the Company.

5. In the circumstances, there is no occasion to entertain this application and I therefore pass the following order : –

- (i) Both the applications are dismissed.
- (ii) No order as to costs.
- (iii) Trial Court shall proceed with the hearing uninfluenced by any observation in this order.

(A. K. MENON, J.)