

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 1533 OF 2016

Mr. Sahadev Shantaram Kolambekar ... Applicant
Versus
Mr. Anand C. Prabhune and another ... Respondents

WITH
CRIMINAL APPLICATION NO. 1534 OF 2016

Mr. Sahadev Shantaram Kolambekar ... Applicant
Versus
Mr. Rangnath B. Tupe and another ... Respondents

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CRIMINAL APPLICATION NO. 1535 OF 2016

Mr. Sahadev Shantaram Kolambekar	... Applicant
Versus	
Mr. Nitin D. Raut and another	... Respondents

AND
CRIMINAL APPLICATION NO. 1536 OF 2016

Mr. Sahadev Shantaram Kolambekar ... Applicant
Versus
Mr. Karuppasamy Arumugam and another ... Respondents

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Mr. Hanmant G. Wakshe for the Applicant in all the Applications.
Mr. Y. Y. Dabke, APP in APL No.1533 of 2016.
Mr. S.R. Agarkar, APP in APL No.1534 of 2016 and APL No.1536 of 2016.
Mr. V. V. Gangurde, APP in APL No.1535 of 2016.

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CORAM: RAVINDRA V. GHUGE, J.
DATE : 17th MARCH 2017

P.C.:

1. The Applicant in all these four cases is accused No.6 before the trial Court. He has received summons to appear before the Court in a charge falling under Section 138 read with Section 141 of the Negotiable Instruments Act, 1881.
2. The applicant submits that he is not a partner of the builder/developer's partnership firm. Accused No.1 is the builder/developer. Accused No.3-the brother of the applicant, is said to be a partner.
3. The grievance of the applicant is that, as he is not a partner in the said partnership firm, he cannot be arrayed as an accused and he is not required to suffer rigours of litigation.
4. It is settled law that while issuing process or while issuing summons under Section 138 read with Section 141 of the Negotiable Instruments Act, 1881, existence of some grounds against the accused, would be sufficient to issue process. The complainant has specifically stated that accused Nos. 2 to 8 are the partners of the partnership firm. Though the applicant submits that he is not a partner, no material is placed before the Court. He would always be at liberty to take that defence and prove his innocence before the trial Court.
5. At this stage, it only needs to be seen as to whether there is any material alleged against the applicant, for which, the summons has been issued. When specific averments have been

made in the complaint indicating that the applicant as well as his brother are partners in the partnership firm, the trial Court, in my view, has rightly issued the summons.

6. Needless to state that the applicant would always be at liberty to pursue the defence and establish his innocence, which would be the subject matter of the trial.

7. Considering the above, these applications, being devoid of merit, are therefore dismissed.

(RAVINDRA V. GHUGE, J.)