

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APPA) NO.168 OF 2015

IN
CRIMINAL APPEAL NO.....

M/s. Ajay Traders

..VS..

Atulsingh Ravinsigh Chauhan, Prop. M/s. A.R. Chauhan Associates

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders
.....

Court's or Judge's Order

Shri S.A. Chaudhari, Counsel for the applicant.

CORAM : V.M. DESHPANDE, J.

DATED : JUNE 22, 2017.

This is an application for leave to file appeal.

The present applicant initiated proceedings
against the non-applicant under the Negotiable Instruments Act.

According to the applicant/complainant, cheque
dated 6.12.2012, drawn on Union Bank of India, Civil lines
Branch, Nagpur of Rs.90,000/-, was issued by the non-applicant
in discharge of legal liability. Learned Judge of the Court below
dismissed the complaint on the ground that the complainant has
utterly failed to prove that the cheque was issued by the non-
applicant in discharge of his legal liability.

The non-applicant is a contractor whereas the
present applicant is engaged in the business of supply of

building material. According to the case of the complainant, in the year 2011 the non-applicant obtained a contract of construction of Borkhedi Railway Yard on Wardha Road and in order to executive the said contract, he approached to the complainant to supply sand and the sand was supplied to the tune of Rs.1,95,300/-. It is further case of the complainant that Rs.1,05,300/- were paid in cash and for remaining amount cheque of Rs.90,000 was issued.

The bill, on the basis of which the applicant is claiming that the non-applicant issued a cheque, is at Exhibit 25. The said bill and other material, which are placed on record by the complainant, do not reflect that any further order was placed by the non-applicant. It is the contention of the applicant that further sand was supplied by taking extra trips from the site.

In that view of the matter, I see no reason to upset a view taken by learned Judge of the Court below which is a plausible one that the applicant has failed to prove that the non-applicant has issued a cheque in discharge of any legal liability.

Hence, leave is refused. The criminal application is rejected.

JUDGE

!! BRW !!

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