

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION [ALP] NO.70 OF 2016

Prashant Baburao Bhingardive ... **Applicant**

V/s.

Amit Dilip Choudhari and anr. ... **Respondents**

Mr.Rahul Sopanrao Kate for the applicant.

Mr.Shailesh Dhananjay Chavan for respondent no1.

Mr. P.H. Gaikwad-Patil for the respondent/State.

CORAM : A.M.BADAR J.

DATED : 24th AUGUST 2018.

P.C. :

1. Heard both side.
2. Though the applicant/original complainant has stated in cross-examination that he has not produced any document to show that some amount was contributed as a capital in the firm. The document at Exh.35 proved by PW2 Phansalkar, shows that an amount of Rs.4,00,000/- was contributed towards towards

capital by mother of the applicant/original complainant. Issuance of cheque of Rs.4,50,000/- is not disputed, except the fact that question is put in cross-examination that ink of the signature on that cheque and other particulars differs. In this view of the matter, case for consideration is made out, as respondent/accused did not enter into witness box before the learned Trial Court. Therefore the order;

:: ORDER ::

- (i) Leave as prayed is granted.
- (ii) Memo of application for leave to appeal be considered as memo of appeal on effecting suitable amendment.
- (iii) Leave to amend to that effect is granted.
- (iv) Admit
- (v) Issue notice to respondents.
- (vi) Shri Chavan waives notice for respondent no.1.
- (vii) The learned Additional Public Prosecutor waives notice for respondent no.2 / State.
- (viii) Call for Record and Proceedings.

- (ix) In lieu of action under Section 390 of the Criminal Procedure Code, respondent no.1 to execute P.R. Bond of Rs.15,000/- before the learned Trial Court within a period of four weeks.

(A.M.BADAR J.)