

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.114 OF 2016

NITIN A. SONI

)...APPLICANT

V/s.

CHETAN CHANDRAKANT SHAH AND ANR.)...RESPONDENTS

Mr.R.S.Saluja, Advocate for the Applicant.

Mr.P.D.Desai, Advocate for the Respondent Nos.1 to 3.

Mr.P.H.Gaikwad-Patil, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 24th OCTOBER 2018

P.C. :

1 Heard both sides. It is seen that respondent nos.2 and 3 have not issued any cheque in favour of the applicant/original complainant. Just because they were co-owners of the flat in respect of which there was claim for brokerage, they need not be

arraigned as accused in the offence punishable under Section 138 of the Negotiable Instruments Act. In this view of the matter, prayer for grant of leave to appeal in respect of acquittal of respondent nos.2 and 3 of the alleged is rejected.

2 The subject cheque was issued by respondent no.1 Chetan Shah. Case for consideration is made out as issuance of cheque and its dishonour is not disputed. Hence, the order :

ORDER

- i) Leave as prayed in respect of acquittal of respondent no.1 Chetan Shah is granted.
- ii) Memo of Application for leave to appeal be treated as Memo of Appeal on effecting necessary amendments thereto.
- iii) Leave to amend is granted.
- iv) Admit.
- v) Issue notice to respondents.
- vi) The learned APP waives notice for respondent no.2/State.
- vii) Call for Record and Proceedings.

viii) In lieu of action under Section 390 of the Code of Criminal Procedure, respondent no.1 Chetan Shah to execute P.R.Bond in the sum of Rs.15,000/- before the learned trial court, within the period of 4 weeks from today.

(A. M. BADAR, J.)