

Dond

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

WRIT PETITION NO.2555 OF 2014

Banwarilal Marketing Pvt.Ltd

Petitioner

Vs

Jagdish Chhajulal Gupta & Anr

..Respondents

Mr. Tushar Sonawane for Petitioner.

Mr. Amit Palkar, APP for State.

CORAM : A.S.GADKARI, J.

DATE : 7th September 2018

P.C.:

1] Heard the learned counsel for the petitioner.

The record indicates that, respondent No.1 is duly served.

Despite service none appears for the respondent No.1.

2] The record indicates that, the petitioner is the complainant in SC No.4902 of 2005 filed under section 138 of Negotiable Instruments Act. That after recording the statement of accused under section 313 of Cr. P.C., the petitioner filed an application below Exhibit-26 for alteration of charge to add an offence punishable under sections 420, 467 and 468 of Indian Penal Code which has been rejected by the impugned Order dated

18.1.2010 passed by the 8th Joint Judicial Magistrate First Class, Nashik.

3] The record further indicates that, the petitioner being complainant, after realizing the fact that the respondent No.1 accused is successful in bringing on record vital admissions from the petitioner and/or is successful in rebutting the presumption under section 139 of the Negotiable Instruments Act, the petitioner preferred the said application below Exhibit 26 as an afterthought. The learned Additional Sessions Judge, Nashik by its Judgment and Order dated 2.4.2013 has rightly dismissed the Revision No. 75 of 2010.

4] In view of the above, I find that the impugned Order passed by the 8th Joint Judicial Magistrate First Class, Nashik dated 18.1.2010 does not suffer from any illegality and/or error in it.

Petition is accordingly dismissed in limine.

Anil
Chandrakant
Dond
Digitally signed
by Anil
Chandrakant
Dond
Date:
2018.09.12
11:00:32 +0530

(A.S.GADKARI, J.)