

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION [ALP] NO.304 OF 2017

Rutwik Sales Private Limited

through Manish Dilip Auti

... **Applicant**

V/s.

Wahid Zahid Sheikh and anr.

... **Respondents**

Mr.Kalpesh Patil i/b. Mr.Pratik Balasaheb Rahade for the applicant.

Mr.Gurudas S. Gorwadkar for respondent no.1.

Mr.S.V. Gavand, APP for the respondent/State.

CORAM : A.M.BADAR J.

DATED : 19th JULY 2018.

P.C. :

1. Heard both sides.
2. The cheque for Rs.1,12,290/- was allegedly given by respondent no.1 / original accused to the applicant / original complainant which ultimately came to be dishonoured.
3. According to the case of the applicant, the respondent/original accused was in its service. He sold out recharge vouchers supplied to

him by the applicant but failed to deposit that money with the applicant / company. Then the subject cheque was issued towards the cost of recharge vouchers sold by the respondent / original accused.

4. The complaint came to be dismissed principally for the reason that minutes of meeting and proceedings book wherein resolution of authorizing PW1 Manish Auti to represent the applicant / company are not placed on record and Certificate under Section 65B of the Indian Evidence Act is not produced to prove computer generated memo of the bank showing dishonoured of the cheque.

5. Resolution of the applicant / company authorizing its services to Manish Auti to represent the company was on record of the learned Trial Court. The party who is not in possession of the device from which the document is produced, is not expected to produce Certificate under Section 65B of the the Indian Evidence Act.

6. In this view of the matter, the following order,

:: ORDER ::

- (i) Leave as prayed for is granted.
- (ii) Memo of application for leave to appeal be considered as memo of appeal.

- (iii) Leave to amend to that effect is granted.
- (iv) Admit.
- (v) Issue notice to respondents.
- (vi) Mr. Gorwadkar, learned Advocate 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 Cr.P.C., respondent no.1 to execute P.R. Bond in the sum of Rs.15,000/- before the Trial Court within a period of one month.

Vina
Arvind
Khadpe

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signed by
Vina Arvind
Khadpe
Date:
2018.07.19
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(A.M.BADAR J.)